

**TOWN OF
DENMARK, MAINE**
“Beautiful by Nature”



Proposed Revisions To The
Zoning Ordinance of the Municipality of Denmark, Maine

METALLIC MINERAL EXPLORATION AND MINING

**FOR SELECT BOARD CONSIDERATION AND PLACEMENT ON
THE JUNE 03, 2023 ANNUAL TOWN MEETING WARRANT**

APRIL 14, 2023

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CHAPTER 3 - LAND USE DISTRICT REQUIREMENTS

3.1. General requirements.

3.1.1. A Plumbing Permit and Building or Use permit shall be required for all buildings, uses and sanitary facilities, according to the provisions of Chapter 5 of this Ordinance.

3.1.2. If more than one principal building or dwelling unit is constructed on a single lot, the minimum lot area requirements shall be met for each principal building or dwelling unit.

3.1.3 No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

3.1.4. All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along the intersecting street lines.

3.1.5. No structure shall exceed 40 feet in height with a habitable floor height not to exceed 30 feet except that structures and features of buildings usually erected at a height greater than the main roofs of buildings and not intended for human occupancy, such as chimneys, towers, ventilators, flagpoles, tanks, and spires may exceed 40 feet in height, but no more than 75 feet, and shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. However, within the Shoreland District no structure shall exceed 35 feet in height as defined in the State of Maine Shoreland Zoning Guide.

3.2. Land Use Controls.

Permitted and Conditional Uses shall conform to the performance standards delineated in Article 5 of this Ordinance as Applicable. Uses permitted and allowed as conditional uses in each district shall be only those uses designated in the table below:

- Y - Permitted use, no permit required
- P - Permitted use, Code Enforcement Officer permit required
- C - Conditional use, Planning Board permit required
- N - Prohibited use
- N/A - Not Applicable
- * - See performance standards in Chapters 4 or 5
- ** - See separate ordinance

	Resource Protection	Shoreland	Village	Rural	Aquifer Protection
Open space use	Y	Y	Y	Y	Y
Clearing of Vegetation for approved construction and other allowed uses	P	P	Y	Y	Y
Animal husbandry*	N	P	P	Y	Y
Agriculture*	P	P	Y	Y	Y
Single family dwelling	N	P	P	P	P

	Resource Protection	Shoreland	Village	Rural	Aquifer Protection
Personal Services	N	N	C	C	C
Photographic processing	N	N	N	N	N
Printing	N	N	C	C	N
Professional Offices	N	C ¹	C	C	N
Restaurant, Standard*	N	C ¹	C	C	N
Restaurant, Fast food*	N	N	N	C	N
Retail use, not elsewhere listed					
less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift	N	C ¹	C	C	N
2,500 sq. ft. or more of floor space or more than 6 employees on any shift	N	N	N	C	N
Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms	N	N	N	N	N
Sale of Vehicles	N	N	N	C	N
Veterinary Hospital*	N	N	C	C	N
Warehouse, Distribution Center	N	N	N	C	N
Wireless Communication Facility ²	C	C	C	C	C
Cemeteries	N	N	P	P	N
Automobile graveyards with three or more vehicles operated in accordance with State laws	N	N	N	C	N
Automobile graveyards with One or two vehicles*	N	N	P	P	N
Junkyards	N	N	N	N	N
Waste processing or disposal facilities	N	N	N	C	N
<u>Non- Metallic</u> Mineral Extraction*	N	C	N	C	C
<u>Non-Metallic</u> Mineral Exploration	N	P	N	Y	Y
<u>Metallic Mineral Exploration</u>	N	N	N	C	N
<u>Metallic Mineral Mining</u>	N	N	N	C	N
(And Extraction)					
Blasting Associated With Metallic Mineral Exploration And Exploration	N	N	N	P	N

CHAPTER 5 - PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES AND LAND USES

5.8. **Non-Metallic** Mineral Exploration and Mineral Extraction.

topsoil, loam, rock, peat, sand, gravel, and similar earth materials

5.8.1. The provisions of this Section 5.8. concern exploration and extraction of sand, fill, gravel, clay, topsoil, peat, silt, rock or like materials that are not associated with metallic mineral exploration and mining operations. Provisions for metallic mineral exploration and mining operations are included under Section 5.18. and other Sections of this Ordinance.

5.8.2. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

5.8.3. Mineral extraction may be permitted under the following conditions:

5.8.3.1. Submission Requirements.

In addition to the requirements for a conditional use application, the applicant shall submit plans of the proposed extraction site:

5.8.3.1.1. The property lines and names of abutting owners and ways, indicating not greater than five foot contour intervals; the location and slope of the grades, existing and as proposed upon completion of the extraction operation; and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits; together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.

5.8.3.1.2. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

5.8.3.2. Design and Performance Standards.

5.8.3.2.1. 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 water body 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.

5.8.3.2.2. Excavation may not occur within 3 feet of the seasonal high-water table, except in the Aquifer Protection District where excavation may not occur

within 5 feet of the seasonal high-water table. If the application for conditional use approval does not include the determination of the elevation of the seasonal high-water table, the elevation shall be estimated from nearby waterbodies and wetlands, and drinking water wells and the operator shall, at the request of the Code Enforcement Officer, dig a test pit at least required separation depth to demonstrate compliance with this standard. The bottom of the excavated area shall be no less than one foot above the elevation of the 100-year flood plain and not less than 200 feet from the normal high-water line of any body of water.

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

5.8.3.2.4. No slopes steeper than 2 feet horizontal to 1-foot vertical shall be permitted at any extraction site unless a fence at least 6 feet is erected to limit access to such locations.

5.8.3.2.5. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.

5.8.3.2.6. Any topsoil and subsoil suitable for purposes of re-vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.

5.8.3.2.7. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 200 feet from such public ways. No mud, soil, sand, or other materials shall be allowed to accumulate on a public street from loading or hauling vehicles.

5.8.3.2.8. No equipment debris, junk or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.

5.8.3.2.9. Within six months of the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

5.8.3.2.9.1. All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

5.8.3.2.9.2. The extent and type of fill shall be appropriate to the use

intended. The applicant shall specify the type and amount of fill to be used.

5.8.3.2.9.3. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.

5.8.3.2.9.4. At least four inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and properly restored to a stable condition.

5.8.3.2.9.5. No slope greater than 3 feet horizontal to 1-foot vertical shall be permitted.

5.8.3.3. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

5.8.4. An excavation of less than 5 acres of land for gravel, clay, topsoil or silt must be conducted and reclaimed as defined in the Planning & Land Use Laws, in accordance with the Maine Revised Statutes Annotated. The excavation must be reclaimed in phases so that the working pit does not exceed 2 acres at any one time.

5.17. Wind Energy Facility

5.18. Metallic Mineral Exploration and Mining

5.18.1. Purpose.

5.18.1.1. To protect the quality and quantity of the Town’s groundwater, spring water, water in aquifers and their recharge areas, and surface waters including lakes, ponds, wetlands, rivers, and streams;

5.18.1.2. To establish an orderly review process for metallic mineral exploration and mining operations in order to ensure the sustainability and quality of groundwater, spring water, and surface waters; prevent the despoliation of drinking water; protect private and public properties from environmental pollution, noise impacts, air pollution, and traffic impacts; protect public roads from degradation; ensure the continuing stability and health of topsoil, and preserve the rural character of the Town in conformance with Town of Denmark Comprehensive Plan provisions;

5.18.1.3. To minimize the effects of ground vibration, dust and noise associated with blasting which may be detrimental to individuals and the community in the enjoyment of life, property, and the conduct of business through the establishment of standards and notice requirements of blasting operations, and;

5.18.1.4. To preserve and protect the health, safety, and welfare of the residents and landowners of and visitors to the Town.

5.18.2. Applicability

5.18.2.1 The following activities are exempt from the requirements of this Section 5.18.:

5.18.2.1.1. Excavation of sand, fill, gravel, clay, topsoil, peat, silt, or rock that is not associated with metallic mineral mining operations.

5.18.2.2. The following activities are prohibited by this Ordinance:

5.18.2.2.1. Any exploration or mining activities that do not comply with the requirements of this Ordinance and applicable provisions of the Maine Department of Environmental Protection (MDEP), State and Federal regulations or any activities associated with beneficiation or smelting, and;

5.18.2.2.2. Activities, materials, and facilities related to beneficiation, smelting, tailings, tailings impoundment, ponds, and wet mine wastes are not permitted within the Town of Denmark, Maine.

5.18.2.3. The Effective Date of this Section 5.18. is the date that the voters of the Town of Denmark adopt this Section 5.18. at any regular or special Town Meeting.

5.18.2.3.1. Any physical alteration or change to existing metallic mineral mining operations, whether or not permitted or existing prior to the Effective Date of this Section, that materially alters the metallic mineral mining operation and any new operation or expansion of a metallic mineral mining operation shall require a Conditional Use Permit from the Planning Board under this Ordinance.

5.18.2.4. Any person may operate one metallic mineral mining operation site / parcel / area at any one time. Any such location shall be decommissioned and closed as provided for herein prior to any metallic mining operation in a different location by the same person.

5.18.2.5. Where operator requirements and responsibilities are included herein and within any permit issued by the Town of Denmark, the owner of the subject land, if different than the operator, is also responsible for compliance with requirements and responsibilities included herein and within any permit issued to an operator by the Town of Denmark. This includes but is not limited to all decommissioning financial resources and activities.

5.18.3. Metallic Mineral Exploration

5.18.3.1. In differentiation of exploration and advanced exploration, refer to MDEP classifications. An outline follows:

5.18.3.1.1. Exploration excavations limited to a maximum surface opening of no more than 300 square feet do not require a permit but must instead submit a satisfactory work plan to the Town of Denmark Code Enforcement Officer and meet a number of MDEP performance standards designed to protect natural resources and properly restore the exploration site.

5.18.3.1.2. Advanced exploration requirements include a two-tier permitting process that creates a graduated scale for classifying advanced exploration activities (minimal environmental impact versus a higher level of environmental impact). Advanced exploration activities fall within two general categories:

5.18.3.1.2.1. Tier One advanced exploration activities involve the

excavation of up to 2,000 tons of excavated material and is limited to an aggregate total of one acre of land disturbance including the mining area, and;

5.18.3.1.2.2. Tier Two advanced exploration activities involve the excavation of up to 10,000 tons of excavated material and is limited to an aggregate total of three acres of land disturbance including the mining area.

5.18.3.1.3. Excavation limitations are per any 24-month period.

5.18.3.1.4. Either Tier requires a permit issued by the Code Enforcement Officer. Submission materials for an advanced exploration permit shall include at least all the materials submitted to MDEP and shall include any MDEP advanced exploration permit(s).

5.18.3.1.5. Exploration permits expire two years from the date of issuance and may be renewed per the process above.

5.18.3.1.6. No chemical / heat processing of any kind of any excavated materials is permitted within the Town of Denmark.

5.18.3.2. At least thirty days before commencing any metallic mineral exploration activities, the applicant must notify, by certified USPS first class mail, return receipt requested, the Planning Board, Code Enforcement Officer and all owners of property located within, or partially within 1,000 feet of any property line of the exploration activities. The notice must contain a description of the planned exploration activities, including estimated quantities and dates of material that will be removed to obtain samples; a map identifying the exact location (latitude and longitude) of each drill hole, test pit, mud pit, trench, or other site to be used for excavations or bulk sampling; and a statement signed by a Maine licensed qualified professional certifying that exploration activities as proposed shall be conducted in accordance with the requirements of this Ordinance and the Maine Metallic Mineral Mining Rules or successor.

5.18.3.3. Any exploration activities that are occurring in lawful operation within the Town of Denmark as of the Effective Date of this Section 5.18. may continue but the operator must give the notices required by this Section 5.18. within 30 days of the Effective Date of this Section 5.18. Said notices must identify all existing and any new drill holes, test pits, mud pits, trenches, or other sites that, as of the Effective Date, are or will be used for exploration activities or bulk sampling, and the actual and estimated quantities of material that has been or will be removed to obtain samples along with the actual and estimated dates of removal.

5.18.3.4. Any person may operate one exploration or advanced exploration site / parcel / area at any one time. Any exploration location shall be decommissioned and closed as provided for herein prior to any exploration in a different location by the same person.

5.18.4. Review Procedures, Submission Requirements, and Review Criteria for Metallic Mineral Mining Operations

5.18.4.1 Review Procedures

5.18.4.1.1. Metallic mineral mining operations are permitted only in District(s) as

provided for in the use table in Section 3.2. Land Use Controls. In addition to provisions and procedures below, a metallic mineral mining operation requires a Conditional Use Permit from the Town of Denmark Planning Board in accordance with the applicable provisions for Conditional Use Permits provided for in this Ordinance.

5.18.4.1.2. Before applying for a metallic mineral mining operation, the applicant must obtain an advanced exploration permit from MDEP and any applicable mining permit from the MDEP in accordance with the Maine Metallic Mineral Mining Rules or successor.

5.18.4.1.3. At least 20 days prior to the date of the next Planning Board meeting the applicant must submit to the Town of Denmark Planning Board ten copies of an application technical and operational data prepared by Maine-licensed qualified professionals. The applicant must notify, by certified USPS first class mail, return receipt requested, all owners of property located within or partially within 1,000 feet of any property line of the proposed operation. The notice must contain a brief description of the operation, a map identifying the location of the proposed operation, and the date and time of the next Planning Board meeting concerning the application. The applicant must submit copies of such notices and copies of return receipts and a plan of the noticed properties within 7 days of the next Planning Board meeting concerning the application.

5.18.4.2. Submission Requirements

5.18.4.2.1. The application must contain the following materials, at minimum:

5.18.4.2.1.1. A nonrefundable application fee as set forth on the Town of Denmark Fee Schedule

5.18.4.2.1.2. An escrow fee of \$5,000. Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise required herein, the Planning Board shall assess fees to cover 100 percent of its costs related to independent engineering, surveying, legal, and similar professional consulting services. Such fees shall be the responsibility of the applicant and shall be subject to the following limitations:

5.18.4.2.1.2.1. Such consultation shall be limited to reasonable and necessary reviews that exceed the expertise of Town staff or Planning Board members or their ability to review the application materials within the time limits otherwise required by law;

5.18.4.2.1.2.2. Such fees shall be assessed only to recover costs directly associated with review (including reporting, testimony, and expenses) of the application submitted by the applicant;

5.18.4.2.1.2.3. Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;

5.18.4.2.1.2.4. The results of the consultation for which such fees are assessed shall be available for public review, but such results

shall be deemed to have been made solely for the benefit of the Town and shall remain its property; and

5.18.4.2.1.2.5. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.

5.18.4.2.1.3. A non-interest-bearing account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed pursuant to this Section 5.18. If the balance in the escrow account is, or is anticipated to be, drawn down by 75% or more of the original deposit, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of the anticipated remaining work. The Town shall continue to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75% or more of the original deposit. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application.

5.18.4.2.1.4. Fees and escrow shall be administered by the Town of Denmark. No permit may be issued until all fees assessed hereunder have been paid in full.

5.18.4.2.2. Application Information

5.18.4.2.2.1. The application shall include the following, at a minimum:

5.18.4.2.2.1.1. The name, mailing address, phone number, and email address of the applicant, its principal representative, and all consultants and agents involved in preparing the application;

5.18.4.2.2.1.2. The general organizational structure of the applicant and any parent companies, owners, principal stockholders, partners, and joint ventures;

5.18.4.2.2.1.3. Evidence of the applicant's right, title, or interest in the properties associated with the proposed metallic mineral mining operation, by deed, lease, purchase and sale agreement, option to purchase, or some other legal proof of interest;

5.18.4.2.2.1.4. Evidence of the applicant's ability to undertake the proposed metallic mineral mining operation in compliance with applicable laws, rules, and ordinances, including: (i) a statement of the applicant's prior experience in exploration and mining activities; (ii) the names and qualifications of all key personnel involved with site preparation, extraction, beneficiation, reclamation, closure and post-closure activities; and (iii) a list of all mines controlled or operated, in whole or in part, by the applicant (including its parent companies, subsidiaries, predecessors, or related persons) in the U.S. and abroad;

5.18.4.2.2.1.5. Evidence of sufficient financial capacity to

undertake the proposed operation (including site preparation, extraction, beneficiation, reclamation, closure, decommissioning, and post-closure activities) in compliance with applicable laws, rules and this Ordinance;

5.18.4.2.2.1.6. A site plan prepared by a Maine-licensed qualified professional showing existing conditions of the mining area (including property boundaries and abutting landowner information; existing public and private roads, easements and rights of way; existing structures; impervious areas; topography; water bodies and streams; areas of steep slopes; vegetated areas; areas of vegetation clearing; and wetlands and other sensitive environmental features);

5.18.4.2.2.1.7. Photographs of all areas proposed to be disturbed;

5.18.4.2.2.1.8. A written project narrative, with detailed information to describe the existing conditions of the site and a full description of the proposed operation (including site preparation, extraction, beneficiation, reclamation, decommissioning, closure and post-closure activities). The narrative must include detailed information of how the operation will be managed so as to address each of the Review Criteria provided herein below;

5.18.4.2.2.1.9. Copies of applications submitted by the applicant to secure all required state and federal approvals;

5.18.4.2.2.1.10. A study prepared by a Maine licensed engineer with experience in conducting traffic impact analyses, which identifies the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, proposed improvements to maintain the desired level of service on the affected streets, and the anticipated road degradation effects and road maintenance improvement costs attributable to vehicular traffic generated by the operation (including, specifically, the off-site transport of mineral waste). The traffic impact study must separately identify the impacts of exploration activities, mining operations, and closure/post-closure activities;

5.18.4.2.2.1.11. Erosion control narrative and plans and details;

5.18.4.2.2.1.12. Study identifying any endangered or protected flora and fauna on site;

5.18.4.2.2.1.13. Evidence that the project as proposed has been presented to the following agencies, and written responses from those agencies: The Maine Natural Areas Program, the Maine Department of Inland Fisheries and Wildlife, the Maine Historic Preservation Commission, the Maine Department of

Transportation, the Maine Department of Agriculture, Conservation & Forestry, and the Maine Department of Environmental Protection. Permit applications to any of the above authorities, or other applicable, significant agencies holding jurisdiction and requiring a permitting and approval process, and any approvals as issued by any of the above;

5.18.4.2.2.1.14. Opinion as to whether the project as proposed requires a National Pollutant Discharge Elimination System (NPDES) permit;

5.18.4.2.2.1.15. Plans showing changes to the landscape of the site, grading, vegetation clearing and planting, screening, lighting, structures, arrays, utilities, BMP's, and all proposed features;

5.18.4.2.2.1.16. Property line metes and bounds;

5.18.4.2.2.1.17. Fencing and gate details;

5.18.4.2.2.1.18. Plan showing water related features including water courses and bodies, wetlands, flood hazard areas, and vernal pools;

5.18.4.2.2.1.19. Plan showing existing tree lines, rock outcroppings, trails, roads, fences, buildings, structures, and foundations;

5.18.4.2.2.1.20. Plan showing any existing above or below ground utilities;

5.18.4.2.2.1.21. Location of any deer wintering areas on site;

5.18.4.2.2.1.22. A Phase I Environmental Site Assessment report and a response narrative from the metallic mineral mining operator on next steps, if any;

5.18.4.2.2.1.23. A table of required and provided zoning dimensional information (e.g. Setbacks, lot coverage, height, etc.);

5.18.4.2.2.1.24. Listing and status of other expected state and federal permits needed;

5.18.4.2.2.1.25. A decommissioning plan meeting the requirements of this Section 5.18.;

5.18.4.2.2.1.26. A written manual or guide for the Denmark Fire Department providing clear response information and instructions, including disconnection locations necessary for fire/emergency response;

5.18.4.2.2.1.27. Satisfactory evidence that the metallic mineral mining operations will conform to the visibility requirements of this Section 5.18.;

5.18.4.2.2.1.28. Any additional information required to be submitted with a Conditional Use Permit application as provided for

in this Ordinance, and;

5.18.4.2.2.1.29 Any additional information requested by the Planning Board at any time if the Planning Board concludes that such additional information is necessary to determine whether the proposal complies with the requirements of this Ordinance.

5.18.4.2.2.2. Within 30 days of the receipt of the application, the Planning Board shall vote to determine whether the application is complete. An application is complete upon submission of the required fees and all information required by this Ordinance. If the application is not complete, the Planning Board must notify the applicant of the information necessary to deem the application complete and must set a date by which the additional materials must be submitted. If the information is not submitted by that date, the application must be returned to the applicant.

5.18.4.2.2.3. Upon determining that an application is complete, the Planning Board will establish a file for the project review. All correspondence and submissions regarding the proposed operation must be maintained in the file and must be made available for review by the public.

5.18.4.2.2.4. The Planning Board may retain a technical and legal evaluation of any proposed metallic mineral mining operation to be conducted by one or more qualified, independent firms or consultants, which the Planning Board deems is reasonably necessary to assist in its review of the proposal. Reviews may include: a hydrogeologic analysis, an environmental impact analysis, a technical analysis of the effects of exploration and mining activities on drinking water and/or on other users or properties, a traffic impact analysis, a road degradation assessment, a noise impact analysis, an analysis of applicable federal and state requirements, legal review, or an analysis of any issues relevant to the Review Criteria provided herein below. Any costs incurred by the Town of Denmark related to such technical and professional services will be borne by the applicant out of the escrow fee.

5.18.4.2.2.5. After a final public hearing, the Planning Board shall deliberate and issue written findings of fact and conclusions of law that set forth the reasons it approves, approves with conditions, or denies the application. Any approval/permit must specify that the permit:

5.18.4.2.2.5.1. Expires two years from the date of issuance;

5.18.4.2.2.5.2. May be renewed in accordance with the requirements of this Ordinance;

5.18.4.2.2.5.3. Authorizes the extraction of an aggregate quantity of mine waste that does not exceed 10,000 tons per any 24 month period, regardless of the number of extraction sources, sites, or facilities used, and;

5.18.4.2.2.5.4. Authorizes a total mining area that does not exceed

three acres land disturbance including the mining area.

5.18.4.2.2.6. A Conditional Use Permit issued under this Section 5.18. may be renewed for a two-year period by the Planning Board if, after abutter notice, submission of application materials (per Section 5.18. requirements, completeness review, and public hearing, the Planning Board finds the following:

5.18.4.2.2.6.1. There is no proposed increase in the permit holder’s exploration or mining activities;

5.18.4.2.2.6.2. There is no change in the location or configuration of the metallic mineral mining operation;

5.18.4.2.2.6.3. There has been no material failure by the permit holder to comply with any conditions of the permit;

5.18.4.2.2.6.4. There has been no material failure by the permit holder to meet the Review Criteria and;

5.18.4.2.2.6.5. There is credible evidence that the permit holder’s continuing operation would continue to meet the Review Criteria and permit conditions during the renewal period.

5.18.4.2.2.7. The application for a Conditional Use Permit renewal must be filed with the Planning Board at least 60 days prior to, and no more than 180 days prior to the expiration of the prior permit and must include an application fee as set forth on the Town of Denmark Fee Schedule. The Planning Board may extend the expiration date of a prior permit if in the process of reviewing a permit renewal. Extensions shall be made in 60 day increments.

5.18.4.2.2.8. For purposes of assisting the Planning Board in making findings the Code Enforcement Officer and/or Planning Board may inspect or, at the applicant's expense, arrange for an independent firm or consultant to inspect the current operation and all records related thereto and prepare a report to be delivered to the Planning Board setting forth all material facts related to its review. An escrow account funded by the applicant may be required for such outside review as provided for hereinbefore.

5.18.4.3. Review Criteria

5.18.4.3.1. Before issuing a Conditional Use Permit authorizing a metallic mineral mining operation, the Planning Board must affirmatively find that the operation complies with each of the following Review Criteria. The burden of proof rests solely with the applicant:

5.18.4.3.1.1. That the applicant demonstrates that it possesses the necessary technical expertise and financial capacity to design, develop, and operate the mine (including technical expertise and financial capacity to conduct site preparations, exploration activities, mining activities,

extraction, beneficiation, reclamation, decommissioning, closure and post-closure activities) in compliance with all state and federal laws and rules and this Ordinance.

5.18.4.3.1.2. Community Impacts

5.18.4.3.1.2.1 That no part of the operation shall be located within one mile of any existing residential dwelling, commercial retail establishment, significant sand and/or gravel aquifer, public water supply, or public property (including parks, public lands, preserves, refuges, conserved lands, municipal buildings and schools).

5.18.4.3.1.2.2. That the operation does not cause any ground subsidence at or beyond the boundary lines of any property associated with the operation.

5.18.4.3.1.2.3. That the operation does not result in unreasonable stormwater runoff, erosion, or sedimentation as determined by the Code Enforcement Officer.

5.18.4.3.1.2.4. That adequate provision is made for safe and convenient pedestrian and vehicular access to the operation and for traffic circulation, loading, and unloading upon the mining area so as to safeguard against hazards to motorized and pedestrian traffic, traffic congestion, and all other safety risks.

5.18.4.3.1.2.5. That any driveways or access roads serving the operation are designed to satisfy all applicable Maine Department of Transportation driveway and entrance rules, as well as all applicable local road and driveway standards per this Ordinance, and applicable state laws.

5.18.4.3.1.2.6. That any vehicular demand on existing Town of Denmark roads, public rights-of-way, or public easements occasioned by the operation and associated transport of mine waste does not exceed the vehicular or weight capacity of those roadways or cause the premature failure, aging, or diminished utility of those roadways. In making findings concerning this criterion, the Planning Board may impose conditions on the operation, including conditions on the routes, hours, maximum weight, limits of trucks, and maximum number of truck trips.

5.18.4.3.1.2.7. That the operation does not cause any undue adverse impact on adjacent properties, the holders of surface rights, public roadways, nearby communities, or the Town of Denmark as a whole. In making findings concerning this criterion, the Planning Board shall evaluate any increased traffic volume, frequency, and type on public roads attributable to operation of the mine (including site preparations, exploration activities, mining activities, extraction, beneficiation, reclamation, closure, and post-closure activities).

5.18.4.3.1.2.8. That the operation does not cause undue adverse impact on:

5.18.4.3.1.2.8.1. Visual impacts on scenic resources;

5.18.4.3.1.2.8.2. Noise and vibrations;

5.18.4.3.1.2.8.3. Air pollution;

5.18.4.3.1.2.8.4. Glare from lights and light pollution (especially in comparison with conditions prior to prior development), and;

5.18.4.3.1.2.8.5. Other nuisance conditions arising from the operation.

5.18.4.3.1.2.9. That dust control measures are implemented and maintained especially during construction and decommissioning such that, at all times, dust emissions in the air do not travel beyond the property lines.

5.18.4.3.1.2.10 That no trees or other landscaping, other than that provided for in the application or as a condition of approval of any plan, application, or permit, may be removed or altered as part of operations.

5.18.4.3.1.2.11. That proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary.

5.18.4.3.1.2.12. That unless waived by the Planning Board, any topsoil that must be removed shall be stored and stabilized on-site for future use, especially for Decommissioning.

5.18.4.3.1.2.13. That at no time will there be any use of herbicides or pesticides without the prior written approval of the Code Enforcement Officer.

5.18.4.3.1.2.14. That the metallic mineral mining operator shall maintain a phone number and identify a person responsible for the public to contact throughout the life of the project and provide this information to the Municipality of Denmark and to immediate abutters.

5.18.4.3.1.2.15. That the transport of mine waste does not pose a threat to public health, safety, or welfare.

5.18.4.3.1.2.16. That mine waste from anywhere off premise is not imported nor used in or on the project site.

5.18.4.3.1.2.17. That the operation does not exceed a sound level of 60 dB at project property lines. The following activities are exempt from this noise requirement: noises of safety signals, warning devices, and emergency pressure relief valves and other emergency activities.

5.18.4.3.1.2.18. That the hours of operation may not be before 7:00

AM or after 6:00 PM on any day. However, the Planning Board may impose additional restrictions on hours of operation, including on weekends and holidays and on hours of vehicular traffic and/or equipment operations.

5.18.4.3.1.2.19 That buffers for metallic mineral mining operations are provided to visibly separate the operations from adjacent properties through screening and distance as follows:

5.18.4.3.1.2.19.1. A minimum 100-foot deep natural, undisturbed buffer shall surround all operations, equipment and structures;

5.18.4.3.1.2.19.2. The buffer shall include a minimum of 25 trees exceeding 2" in caliper at 4 feet above the ground in any 100-foot buffer length as measured along the inner edge of the buffer. Where a buffer exceeds 100 feet in depth, the 25 trees standard may be met by including those trees within the first 200 feet of buffer depth;

5.18.4.3.1.2.19.3. Additional trees shall be provided where necessary to achieve the 25 trees standard. Such additional trees shall be of the same species as existing trees in the immediate area, shall be 1½" minimum caliper 4 feet up, and shall be placed to fill in the gaps, and;

5.18.4.3.1.2.19.4. The buffer requirements shall not apply at project vehicular entrance(s), utility rights-of-way, and similar required openings.

5.18.4.3.1.2.20. That visibility of metallic mineral mining operations conforms to:

5.18.4.3.1.2.20.1. Metallic mineral mining operations shall be sited so that no portion is visible from any point on a great pond or navigable waterway in Denmark;

5.18.4.3.1.2.20.2. Metallic mineral mining operations shall be sited so that no portion is visible from a point five feet above a Public Road in Denmark, and;

5.18.4.3.1.2.20.3. Metallic mineral mining operations may not rely upon off site structures or vegetation to achieve compliance with these visibility requirements.

5.18.4.3.1.2.21. That the applicant shall submit a comprehensive Stormwater Management Plan with its Conditional Use Permit application.

5.18.4.3.1.2.22. That fencing shall be provided conforming to:

5.18.4.3.1.2.22.1. Fencing for all metallic mineral mining operations, excluding along access roads, shall be completely enclosed by a minimum 8 foot high, black PVC coated (min.

22 mils.) bonded to the core wire chain link fence (min. wire 8 gauge) with top rail with eight (8) foot high, black PVC coated chain link locking gate(s). The fence shall be elevated an average of 5" for small terrestrial animals;

5.18.4.3.1.2.22.2. These fence/gate requirements may be exceeded where and as determined by the operator to provide proper and safe conditions;

5.18.4.3.1.2.22.3. Access points through the required fencing shall be locked to prevent unauthorized access or entry, and;

5.18.4.3.1.2.22.4. Appropriate warning signs shall be posted on the fencing and at gates. Signs with operator contact information including operator name, address, constantly monitored phone number and email address shall be placed at every gate.

5.18.4.3.1.2.23. That access to and around the metallic mineral mining operations shall conform to the following:

5.18.4.3.1.2.23.1. Adequate access, parking, and circulation, as determined by the Planning Board, for service and emergency vehicles shall be provided;

5.18.4.3.1.2.23.2. At a minimum, a 20' wide all-weather road(s) or driveway must be provided from a public road into the site;

5.18.4.3.1.2.23.3. The first 50 feet of the road(s) or driveway(s) shall be paved with 3" minimum thickness bituminous concrete including appropriate turning radii areas at the entrance, and;

5.18.4.3.1.2.23.4. Mud, soil, sand, and other materials shall not be allowed to accumulate on a public street from project vehicles.

5.18.4.3.1.2.24. That metallic mineral mining operations shall not be artificially lighted except to the extent required for safety or by applicable federal, state, or local authority.

5.18.5. Blasting

5.18.5.1. A permit shall be required from the Code Enforcement Officer prior to any blasting.

5.18.5.2. Blasting and blasting operations must conform to all applicable local and State laws and the following:

5.18.5.3. All applications for a permit under this Section 5.18. shall contain the following:

5.18.5.3.1. The name and phone number of the applicant;

5.18.5.3.2. The name of the property owner, if different than above;

5.18.5.3.3. A scaled map denoting the general blasting location(s) and identifying all structures located within two thousand (2,000) feet of the property line of the property containing the blast area;

5.18.5.3.4. A list of all properties within two thousand (2,000) feet of the property line of the property containing the blast area including the current assessed property owner and their mailing address;

5.18.5.3.5. The total number of cubic yards of material estimated to be removed by blasting;

5.18.5.3.6. An estimate of the number of blasts required to remove the specified amount of material;

5.18.5.3.7. Hours and dates of proposed blasting activity;

5.18.5.3.8. A blasting plan (design) demonstrating, with a reasonable degree of certainty, that the blasting activity proposed can be conducted safely and within the bounds of these and the State of Maine's blasting regulations.

5.18.5.3.8. Proof that the entity applying for the Town's blasting permit has a permit to use explosives as issued by the State of Maine Fire Marshal's Office;

5.18.5.3.9. A permit fee as set forth on the Town of Denmark Fee Schedule;

5.18.5.3.10. A valid certificate of liability insurance with a policy limit of not less than \$2,000,000 which includes a statement clearly indicating that blasting and use of explosives is covered under the policy, and;

5.18.5.3.11. A copy of the notice that was provided to abutters.

5.18.5.4. Effective Period.

5.18.5.4.1. Blasting permits shall be effective for no more than ninety (90) days from the date of approval. For blasting operations, the scope of which exceeds ninety (90) days, renewal of the permit shall be accomplished by reapplying in accordance with the procedure for a new permit, except that a public hearing may be held by the Planning Board to review past compliance with the standards contained herein and any effects on existing uses and property owners in the vicinity of such blasting operations.

5.18.5.5. Performance Standards.

5.18.5.5.1. Blast vibration shall be monitored at the blast site, typically at the structure(s) closest to the blast site. Ground vibration at structures not owned or controlled by the operator may not exceed the limits shown in Figure B-1 of Appendix B, U.S. Bureau of Mines Report of Investigations 8507. Vibration limits will closely follow limits described in State of Maine Regulations. Blast designs will be modified as required to stay within these guidelines. Blasting operations will be modified accordingly when approaching buildings and utilities.

5.18.5.5.1.1 Flyrock shall be controlled so as to remain on the site and may not enter a protected resource.

5.18.5.5.1.2. Blast sound shall comply with Title 38 MRSA §490-Z (14)(H).

5.18.5.5.1.3. Blasting shall not include the use of perchlorate.

5.18.5.5.1.4. A calibrated seismograph shall be on-site and operating during all blasts. All data obtained from those measurements must be made available to the Code Enforcement Officer upon request. Seismograph data must be maintained for no less than six (6) years.

5.18.5.5.1.5. The operator shall provide written notification of the proposed blasting to the owners of all abutting properties within two thousand (2,000) feet of the property line of the property containing the blast area, via regular and certified mail, and the written notification shall include the following:

5.18.5.5.1.5.1. The application information required by this Section 5.18., and;

5.18.5.5.1.5.2. The offer of a professionally prepared pre-blast survey of each structure and pre-blast water quality test of each drinking water source, both at the operator's expense, allowing a minimum of 14 days response time from the date of the original mailing.

5.18.5.5.1.6. Notices Required Following Permit Issuance:

5.18.5.5.1.6.1. Any person or entity intending to detonate explosives shall first notify the Code Enforcement Officer that a blast is planned. Such notification shall be received at least twenty-four (24) hours prior to the planned detonation and shall give the time (within two (2) hours), location where the blasting is to be done, the amount of explosives to be used and the name and business address of the person responsible for the blasting operation. The notification may be given orally over the telephone; however, the burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation;

5.18.5.5.1.6.2. The person or entity responsible for a blast shall notify the Code Enforcement Officer in the event of any misfires and the proposed corrective action within five (5) business days of the misfire;

5.18.5.5.1.6.3. The person or entity responsible for the blast shall place warning signs along property lines of the blasting site at least seven (7) days in advance, and;

5.18.5.5.1.6.4. The person or entity responsible for the blast shall also sound the required warning horn prior to each blast as outlined in NFPA 495 Explosive Materials Code.

5.18.6. Enforcement and Penalties.

5.18.6.1. It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Section 5.18. Any person, including but not limited to a landowner, a

landowner's agent, or contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. § 4452, as may be amended from time to time. For purposes of this Section 5.18., each day that a violation continues shall be considered a separate offense.

5.18.7. Recording.

5.18.7.1. If the Planning Board approves, or approves with conditions, metallic mineral mining operation, the operator shall record in the Oxford County Registry of Deeds, Findings of Fact and Conclusions of Law indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that such approval was granted, including any conditions of approval, and the date on which the approval was granted. The approval(s) shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval.

5.18.8. Decommissioning, Removal, and Bonding.

5.18.8.1. A metallic mineral exploration or mining operation shall be considered Decommissioned when:

5.18.8.1.1. The operation has reached the end of its useful life, sustained casualty loss, or other significant damage, is not repaired, or used, or has reached a point of obsolescence and, after at least six consecutive months after any of these or similar events, the operation is declared Decommissioned by the Code Enforcement Officer, and/or,

5.18.8.1.2. The operation fails to operate as designed for a period of six or more consecutive months and is declared Decommissioned by the Code Enforcement Officer, and/or,

5.18.8.1.3. The operator submits a written notice to the Municipality of Denmark declaring a Decommissioning and providing a date of Decommissioning, either a past or present date, or future date if the metallic mineral mining operation is then operating.

5.18.8.2. The Date of Decommissioning shall be the date so declared by the Code Enforcement Officer or so provided in writing by the operator. The Code Enforcement Officer shall notify the operator by certified mail with signed receipt specifying, at a minimum, the Date of Decommissioning and that all facilities of the operation must be removed, and the site be restored to a condition approved by the Planning Board within 360 days. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Municipal Officers of the Town of Denmark and Planning Board.

5.18.8.3. Decommissioning.

5.18.8.3.1. The operator shall commission a Phase I Environmental Site Assessment conforming to ASTM standard E1527-21 within 60 days of the Date of Decommissioning. Should contamination be encountered or suspected, a Phase II Environmental Site Assessment conforming to ASTM standard E1903-19 shall be conducted. All discovered and encountered hazardous materials shall be removed and disposed of in accordance with all local, state, and federal

regulations.

5.18.8.3.2. The operator shall be responsible for determining, applying for, and receiving all necessary Decommissioning permits.

5.18.8.4. Decommissioning shall also consist of:

5.18.8.4.1. Removal of all facilities and materials including, but not limited to, all equipment, barriers, fencing, OH/UG electric wiring and conduits, foundations, equipment, signage, buildings, and concrete pads;

5.18.8.4.2. Removal of all graveled areas and access ways unless the operator requests in writing for such to stay in place and receives Planning Board approval;

5.18.8.4.3. Removal of all stormwater management and BMP's unless the operator requests in writing for such to stay in place and receives Planning Board approval;

5.18.8.4.4. Removal of toxic wastes, wastewater, and hazardous materials from the site including ~~surface waters and ponds, soils, and treatment ponds and~~ surface waters and ponds constructed by or resulting from mining activities;

5.18.8.4.5. The implementation of satisfactory, permanent, make-safe provisions to remove dangerous and hazardous conditions, all as determined by the Code Enforcement Officer, and;

5.18.8.4.6. Stabilization of all disturbed areas as necessary to minimize erosion, including, but not limited to, stabilization of slopes, creation of safety benches, planting of forests (a minimum of 10 - 1½" caliper trees per acre native to the immediate area), seeding of grasses and legumes for grazing purposes, planting of crops for harvest and enhancement of wildlife and aquatic resources, spreading topsoil. New trees shall have a 90% survival rate after 2 years or be replaced. Replacement trees shall start a new 2-year period.

5.18.8.5. Decommissioning Bond.

5.18.8.5.1. Before issuance of any building permit for a metallic mineral exploration or mining operation, and/or prior to any related construction, the applicant, or other entity approved by the Code Enforcement Officer shall provide a Decommissioning Bond in form and substance approved by the Municipal Officers of the Town of Denmark and made payable to the Town of Denmark for all costs associated with the Decommissioning of the operation.

5.18.8.5.2. The value of the Decommissioning Bond shall be equal to 125 percent of the estimated cost of Decommissioning the operation. At the end of the second year of operation, and for each successive 2-year period of operation, or upon permit renewal as the case may be, the operator shall be required to submit an updated cost estimate to the Code Enforcement Officer and Municipal Officers of the Town of Denmark. The Municipal Officers of the Town of Denmark shall have the authority to reasonably accept or not accept the cost estimate value(s). Within 90 days of acceptance, the operator or landowner shall provide the Town of Denmark with a new Decommissioning Bond in the amount equal to 125 percent of the new estimate reasonably accepted by the Municipal Officers of the

Town of Denmark.

5.18.8.5.3. The Decommissioning Bond shall be of form and substance reasonably acceptable to the Municipal Officers of the Town of Denmark and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town of Denmark, and the procedure for the collection by the Town of Denmark. The bond documents shall specifically reference the subject operation. The Decommissioning Bond shall include a provision granting and guaranteeing the Town of Denmark the authority to access the funds and property and perform the Decommissioning of the operation if the operator fails to meet their obligations to fully and properly remove the operation.

5.18.8.5.4. The operator shall be responsible for notifying the Code Enforcement Officer in writing if the Decommissioning Bond is revoked or is no longer valid or in force within 7 calendar days of the operator's receipt of notice of same. Within 30 days of such an event, the operator or landowner shall provide the Town of Denmark with a replacement Decommissioning Bond (or other instrument) that is reasonably found acceptable by the Municipal Officers of the Town of Denmark. If an acceptable replacement bond is not provided within 30 days, any Conditional Use Permit approval(s) for the operation shall be void.

5.18.8.5.5. The Decommissioning Bond or replacement bond must be kept in effect throughout the lifetime of the operation. The operator may apply to the Municipal Officers of the Town of Denmark for the release of the Decommissioning Bond at such time that:

5.18.8.5.5.1. A Certification, prepared by a Maine licensed Professional Engineer experienced in such matters, is provided by the operator reporting that the operation has been Decommissioned as required by this Section 5.18. and as required by any Municipality of Denmark approval or applicable conditions of approval, and;

5.18.8.5.5.2. The Decommissioning activity is found to be satisfactorily complete by the Code Enforcement Officer and the Municipal Officers of the Town of Denmark.

5.18.8.5.6 If the operator fails to Decommission the operation as required by this Section 5.18. and as required by any applicable conditions of approval, the Town of Denmark will use reasonable effort (at least three times by either phone, US mail, and/or email) to notify the operator of its intent to use the Decommissioning Bond and use any and all legal or available means necessary to Decommission the operation.

5.18.8.5.7. Any Decommissioning costs exceeding the proceeds of the Decommissioning Bond and incurred by (and/or to be incurred by) the Town of Denmark shall be funded by the operator within 30 days of such notice. Failing receipt of such funding, the Town of Denmark will use reasonable efforts to recover the excess costs, and any costs of such recovery, which means may include imposing a Special tax and/or a tax lien on the real estate of the operation.

5.18.9. Miscellaneous provisions

5.18.9.1. The applicant must submit all MDEP required submission or monitoring results

to the Planning Board on the same timeframe as such results are provided to the MDEP pursuant to the Maine Metallic Mineral Mining Rules or successor.

5.18.9.2. Before the start of any exploration or mining construction, the metallic mineral mining operator shall provide a copy of a proposed Spill Prevention and Control Plan, or similar document, to the Code Enforcement Officer for their approval.

5.18.9.3. Any change in the metallic mineral mining operator or land ownership shall be reported to the Code Enforcement Officer and Town Manager, in writing, and shall be kept on file by the Code Enforcement Officer. Within 30 days of this written notification, the new operator and/or land owner must provide documentation of all updated, if necessary, financial assurances required by permit and copies of all correspondence approving transfer of applicable permits by regulatory agencies (i.e. MDEP)

5.18.9.4. As provided for in this Section, where professional or legal services are reasonably needed by the Code Enforcement Officer to conduct herein requirements, responsibilities, and actions, those services may be conducted by supportive others at applicant expense.

5.18.10. Enforcement.

5.18.10.1. The following acts or omissions constitute a violation of this Section 5.18: (A) conducting a metallic mineral mining operation or any exploration operation outside of the bulk and dimensional limitations of this Ordinance; (B) conducting a metallic mineral mining operation or any exploration operation without all required permits; (C) conducting a metallic mineral mining operation or any exploration operation not in compliance with all permit conditions; (D) conducting any exploration activities not in compliance with the notice requirements of this Ordinance; (E) any material misstatement of fact in any notice, application, or supporting documentation filed with the Town; (F) failure to comply with the Review Criteria in this Section 5.18. , including exceeding maximum extracted mine waste or bulk sampling thresholds, exceeding maximum mining areas, or operating outside of approved hours of operation; or (G) failure to comply with any provision of this Ordinance. This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Denmark or duly authorized designee(s), and shall be enforceable by and under, and subject to all the terms, fines, and penalties of 30-A M.R.S.A. § 4452.5.18. Inspections. The Code Enforcement Officer, and any supportive others may, at any time, enter any exploration or mining site, take samples, make measurements, locate operations, and conduct tests, and may conduct drone surveillance in order to determine compliance with any provision of this Ordinance. The costs incurred or to be incurred by the Town of Denmark for performing this work shall be the responsibility of the operator.

5.18.11. Appeals.

5.18.11.1. Any person or entity aggrieved by a decision, action, or failure or refusal to take action of the Code Enforcement Officer or the Planning Board may appeal to the Maine Superior Court in accordance with 30-A M.R.S.A. § 2691 and Rule 80B of the Maine Rules of Civil Procedure.

5.18.12. Severability.

5.18.12.1. If any section, part of a section, or any provision of this Section 5.18. is

declared by a court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, such declaration shall not affect the validity or enforceability of this Section 5.18. as a whole, or any part of provision other than that specifically declared to be unconstitutional, invalid, or unenforceable.

5.18.13. Relation to Other Rules and Laws

5.18.13.1. This Section 5.18. does not relieve a person of the obligation to comply with all other applicable state, federal, or local laws, rules, and this Ordinance, including the Maine Metallic Mineral Mining Rules or successor.

5.18.14. Conflicts

5.18.14.1. Whenever a provision of this Section 5.18. conflicts with or is inconsistent with another ordinance, regulation, or rule administered by the Town of Denmark, the more restrictive provision controls.

CHAPTER 9 – CONSTRUCTION OF LANGUAGE AND DEFINITIONS

9.1. Construction of Language.

In this Ordinance, certain terms or words shall be interpreted as follows:

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and plural includes the singular; the word “shall” is mandatory, and word “may” is permissive; the words “used” or “occupies” include the words “intended,” “designed,” or “arranged to be used or occupied,” the word “building” includes the word “structure,” and the word “dwelling” includes the word “residence”, the word “lot” includes the words “plot” or “parcel.” In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

9.2. Definitions.

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Beneficiation: The treatment of ore to liberate or concentrate its valuable constituents, including crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining, and roasting in preparation for leaching to produce a final or intermediate product.

Blast/Blasting: Any activity entailing the use of explosives for the purpose of producing an explosion to demolish structures or to fragment rock for mining, quarrying, excavation or construction.

Blasting Operations: Drilling and site preparation solely for blasting and detonation, and any operation, enterprise, or activity involving the use of blasting.

Bulk Sampling: The removal of samples for the purpose of testing to determine the feasibility, method, or manner of extraction or processing of metallic minerals. "Bulk sampling" includes, but is not limited to drilling and boring, digging of shafts and tunnels, and digging of pits and trenches.

Closure: The activities undertaken to manage a mining area and, if necessary, an affected area, pursuant to an environmental protection, reclamation, and closure plan as approved by the MDEP. Closure includes, but is not limited to, actions taken to contain metallic mineral wastes on site and to ensure the integrity of waste management facilities and the permanent securement of tailings, tailings impoundment areas, wastes, pits, shafts, and underground workings. Decommissioning related to exploration and mining activities is a separate requirement as provided for within this Ordinance.

Exploration or Exploration Activity – Metallic Mining: Any bulk sampling or exploratory activity associated with a metallic mineral mining operation.

MDEP: The Maine Department of Environmental Protection and any successor agency.

Maine Metallic Mineral Mining Rules: Title 38, Sections 490-LL et seq. of the Maine Revised Statutes Annotated, and the MDEP rules promulgated thereunder, including 96 C.M.R. Ch. 200.

Metallic Mineral: Any ore or material to be excavated from the natural deposits on or in the earth for its metallic mineral content; contains one or more metals like, but not limited to, gold, iron, aluminum, nickel, copper, zinc, lead, lithium, silver, mercury, platinum, bauxite, manganese, etc.; includes metallic materials incorporated, combined, or encased within other materials; are further classified into ferrous minerals and non-ferrous minerals; and does not include ores of thorium or uranium.

Mine Waste: All material, including overburden, rock, ore, tailings, and other mining-related materials, that has been exposed to or removed from the earth during exploration or mining activities.

Mineral Extraction – Non Metallic Mineral: Any operation within any twelve (12) month period which removes more than two hundred fifty (250) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site.

Metallic Mineral Mining, Mining Operation, Operation, or Mining Activity: The extraction of metallic mineral and any associated exploration and extraction activities, facilities, or processes necessary for the exploration, extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, exploration, extraction, or beneficiation of metallic minerals, smelting, as well as waste storage and other stockpiles and reclamation activities.

Mining Area: The aggregate land area devoted to mining and exploration activities, including land from which earth material is removed in connection with mining and exploration activities, land on which material from mining is stored or deposited, land on which beneficiation or treatment facilities (including groundwater and surface water management treatment systems) are located, land on which water reservoirs used in a mining operation are located, access roads, equipment operating areas, and parking areas.

Ore: *Rock containing sufficient metallic mineralization to process using current technologies.*

Overburden: *Soil, rock, or other materials which lie above or between the natural mineral deposits to be mined.*

Person: *For metallic mineral exploration and mining operations and for Wind Energy Facilities, an individual, firm, partnership, association, company, limited liability company, corporation, joint venture, organization, municipality, governmental entity, or other legal entity.*

Tailings: *The product resulting from the milling and mineral concentration process remaining after extraction of minerals by physical or chemical means.*

Tailings impoundment: *The land on which is deposited, by hydraulic or other means, material that is separated from the metallic product in the beneficiation or treatment of minerals, including any surrounding dikes constructed to contain the material.*

ARTICLE 67. Shall the Town vote to enact the proposed revision to the **Zoning Ordinance of the Municipality of Denmark, Maine Section 5.18. Metallic Mineral Exploration and Mining.** Synopsis is below.

An attested copy of the full text of this ordinance section, redlined with the proposed revision or amendment is on file at the Town Office and on the Town’s website.

- *The proposed ordinance provides metallic mineral exploration and mining rules and regulations for large-scale operations.*
- *Regulations address metallic mineral exploration and mining activities, locations, sizes, environmental matters, and decommissioning.*
- *The proposed ordinance regulates metallic mineral exploration and mining permitting, application-submission, construction, and reporting processes.*
- *Metallic minerals include ore or material to be excavated for its metallic mineral content; contains one or more metals like, but not limited to, gold, iron, aluminum, nickel, copper, zinc, lead, lithium, silver, mercury, platinum, bauxite, manganese, etc.; includes metallic materials incorporated, combined, or encased within other materials; are further classified into ferrous minerals and non-ferrous minerals; and does not include ores of thorium or uranium.*
- *Prohibited are activities, materials, and facilities related to beneficiation, smelting, tailings, tailings impoundment, ponds, and wet mine wastes.*
- *Related definitions are included.*
- *The provisions of Section 5.8, “Mineral Exploration And Mineral Extraction” are not amended.*

Attest: A true copy of a revision to the Zoning Ordinance of the Municipality of Denmark, Maine entitled “Section 5.18 Metallic Mineral Exploration and Mining” as certified to me by the municipal officers of Denmark on the 25th day of April 2023.

Signature _____
Town Clerk, Denmark