

MINERAL EXTRACTION MORATORIUM ORDINANCE

The **TOWN OF ETNA**, Maine, after due consideration, enacts a Moratorium Ordinance as follows:

WHEREAS, areas of the Town of Etna (hereinafter the "Town") are experiencing potential increased development pressure from the extraction of certain materials from the earth;

WHEREAS, without appropriate regulation, these proposed or anticipated developments raise concerns about quality of life, adjacent property values, health and safety, and visual and environmental impacts, including but not limited to the following:

- a. increased volume of large commercial vehicles on local roads with attendant concerns regarding pedestrian and vehicular safety, deterioration of road infrastructure and increased maintenance expenses;
- b. impact of additional and/or such activities in areas proximate to water bodies on water quality;
- c. impact of additional and/or expanded Mining activities on air and soil quality as the result of particulate pollution and erosion;
- d. noise pollution; and
- e. loss of open space, timber resources, and wildlife habitat;

WHEREAS, this development pressure was unanticipated and has not been adequately provided for in the Town's current ordinances;

WHEREAS, the Town currently lacks uniform standards for mineral extraction activities sufficient to allow for mitigation of the threats to public health, safety and welfare identified above;

WHEREAS, without appropriate regulation, such development could pose a threat to the quality of life, adjacent property values, and the health and safety of Town residents;

WHEREAS, without appropriate regulation, such development could cause a shortage or overburdening of public facilities such as water, roads, and public safety;

WHEREAS, the Town requires at least 180 days to consider, develop, pass, and implement necessary ordinances and regulations concerning this matter to protect the health, safety, and welfare of Town residents; and

WHEREAS, in the judgment of the Town, these findings of fact necessitate this Moratorium Ordinance pursuant to 30-A M.R.S. § 4356(1);

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356 and the Town of Etna's home rule authority under the Maine Constitution and 30-A M.R.S. § 3001, the Town of Etna ordains that a Mineral Extraction Moratorium Ordinance is imposed as follows:

- I. **Definitions:** The following definition shall be used in the interpretation and construction of this Moratorium Ordinance:
- a. "Mineral Extraction" shall mean any excavation or removal, handling or storage of sand, gravel, borrow, rock, clay, minerals, metals, or topsoil including but not limited to sand or gravel pits, clay pits, borrow pits, quarries, mines, and topsoil mining or removal. Except that Mineral Extraction shall not include for purposes of this Moratorium Ordinance the following:
 - i. the removal of any amount of sand, gravel, or loam from a site if it is part of normal farm operations, or the sand, gravel, or loam is being moved to a contiguous site having the same ownership or is being used by the owner for their own use on that site; or
 - ii. excavation or grading which is undertaken as part of and subordinate to an approved construction project such as a subdivision, permitted structure or road, unless it is intended to circumvent this section.
- II. **Purpose:** The purpose of this Moratorium Ordinance is to provide the Town a reasonable time to evaluate the concerns discussed above and determine the adequacy of existing ordinances, and, if necessary, develop additional ordinances and regulations to provide adequate protection for the property, health, welfare, and safety of Town residents.
- III. **Moratorium on Mineral Extraction:** No official, officer, board, or body of the Town, including without limitation the Select Board, the Planning Board, the Board of Appeals, the Code Enforcement Officer, any Municipal Officers or Officials, or the Building Inspector, shall accept, process, or approve any applications, petitions, plans, permits, licenses, or requests for approval or authorization for any use or operation involving Mineral Extraction, located in whole or in part within the Town of Etna.
- IV. **Severability:** Any provisions of the Town's existing ordinances that are inconsistent or conflicting with the provisions of this Moratorium Ordinance are hereby repealed to the extent applicable for the duration of this Moratorium Ordinance. If any section or provision of this Moratorium Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.
- V. **Effective Date, Retroactivity & Term:**
- a. This Moratorium Ordinance shall take effect immediately upon passage by the Town. Unless, after notice and hearing, the Etna Select Board votes to extend it pursuant to 30-A M.R.S. § 4356(3), this Moratorium Ordinance shall remain in full force and effect for 180 days after its enactment, or until a new and revised set of regulations is adopted by the Town of Etna, whichever shall first occur.
 - b. Upon its effective date, notwithstanding the provisions of 1 M.R.S. § 302, this Moratorium Ordinance shall be retroactive and applicable to the maximum extent permitted by law and subject to the severability clause above, to any and all

incomplete, filed, pending, or future applications and petitions for Mineral Extraction which have not received all necessary development permits or licenses from the Town of Etna and all proposed Mineral Extractions that were not fully operational and/or did not have all the required State permits as of September 21, 2023, the date the Moratorium Ordinance was first proposed to the Town of Etna Select Board.

- VI. **Civil Penalties:** Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S. § 4452. Any violation of this Moratorium Ordinance shall constitute a nuisance. Each day of violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Etna.



A true and attested copy

Rebecca Woodard, Town Clerk