

**TOWN OF ALNA, MAINE
MORATORIUM ORDINANCE REGARDING
MINERAL EXTRACTION FACILITIES AND OPERATIONS**

The TOWN OF ALNA, Maine (the “Town”), hereby adopts a Moratorium Ordinance Regarding Mineral Extraction Facilities and Operations (this “Moratorium Ordinance”), as follows.

The legislative body of the Town makes the following findings:

WHEREAS, developers have expressed interest in and have been increasingly developing Mineral Extraction Facilities and Operations within the Town of Alna; and

WHEREAS, no specific regulation governing Mineral Extraction Facilities and Operations exists under the Town of Alna's Land Use Ordinances; and

WHEREAS, the Town's existing ordinances are inadequate to prevent the potential for serious public harm from the siting, installation, expansion, and operation of Mineral Extraction Facilities and Operations in the Town; and

WHEREAS, the siting, installation, expansion, and operation of Mineral Extraction Facilities and Operations within the Town raise legitimate and substantial questions about the impact of such facilities on the Town, including but not limited to whether such facilities are incompatible with existing and permitted land uses in the Town; potential adverse environmental effects on the Town and its residents, including adverse effects on noise levels and water quality within the Town; potential worsening of traffic impacts, degradation of public roadways, and inadequate financial assurances that such facilities and operations will be properly constructed, maintained, operated, decommissioned, and that disturbed areas will be properly reclaimed; and

WHEREAS, as a result of the foregoing issues, the siting, installation, expansion, and operation of Mineral Extraction Facilities and Operations within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents and visitors; and

WHEREAS, the Town needs a reasonable amount of time to study the land-use implications of Mineral Extraction Facilities and Operations and develop reasonable regulations governing their location, construction, operation, decommissioning and reclamation, and to secure voter approval for such regulations; and

WHEREAS, the Town, with assistance from the Planning Board, Code Enforcement Officer, and other departments, intends to study the Town's ordinances to determine the land-use and other regulatory implications of the siting, construction, operation, decommissioning and reclamation of Mineral Extraction Facilities and Operations within the Town, and to consider what locations, approvals, and additional performance standards, if any, might be appropriate for these facilities and operations; and

WHEREAS, it is anticipated that such study, review and development of reasonable regulations

will not take more than 180 days from the Date of Applicability of this Moratorium Ordinance;
and

WHEREAS, pursuant to 30-A M.R.S. § 4356, the Town may adopt a moratorium ordinance on the processing or issuance of permits, approvals and licenses for Mineral Extraction Operations;
and

WHEREAS, the foregoing findings create necessity, within the meaning of 30-A M.R.S. § 4356, for a moratorium on the processing or issuance of development permits or licenses for Mineral Extraction Facilities and Operations.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the voters of Alna, Maine, as follows:

1. MORATORIUM. The Town does hereby declare a moratorium on the siting, installation, operation, permitting and approval of any new Mineral Extraction Facilities and Operations and the expansion of any existing, actual and substantial Mineral Extraction Facilities and Operations within the Town of Alna.

For the purposes of this Moratorium Ordinance:

- (a) “Mineral Extraction Facilities and Operations” are defined as any commercial excavation, removal, handling, processing, or storage of on-site extracted sand, gravel, aggregate, borrow, stone, rock, clay, minerals, metals, or topsoil, including, but not limited to: washing or screening operations, concrete mix or asphalt batching plants, blasting or mining operations, ore concentration processes, sand or gravel pits, clay pits, borrow pits, mines, and topsoil removal operations. Mineral Extraction Facilities and Operations specifically do not include such facilities or operations with an aggregate disturbed surface area of land of less than 1 acre, provided that such facilities or operations are undertaken by individuals for their personal, noncommercial use.
- (b) “Expansion” means enlargement of the aggregate disturbed surface area of land by more than 1 acre. Any reclaimed land shall be subtracted from the aggregate disturbed surface area.

No person or organization shall locate, operate, or expand Mineral Extraction Facilities and Operations within the Town on or after the Effective Date of this Moratorium Ordinance. During the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board, or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application or request for any type of license, permit, or approval related to Mineral Extraction Facilities and Operations.

2. DATE OF APPLICABILITY. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Moratorium Ordinance shall govern and apply to all proceedings and applications for Mineral Extraction Facilities and Operations that

were or are pending before the Town at any time on or after February 22, 2023 (the “Date of Applicability”). To the extent allowed by 30-A M.R.S. § 3007(6), this Moratorium Ordinance shall apply to and nullify the issuance of any final approval, license, or permit for a new or expanded Mineral Extraction Facility or Operation issued within 45 days of the Effective Date.

3. **EFFECTIVE DATE.** This Moratorium Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect (i) for a period of 180 days from the Date of Applicability, (ii) until this moratorium is extended, repealed or modified by the Town pursuant to applicable law, or (iii) until a new ordinance regulating Mineral Extraction Facilities and Operations or an amendment to existing Town ordinances addressing such facilities and operations is adopted by the Town, whichever shall occur first.
4. **CONFLICTING OR INCONSISTENT PROVISIONS.** Any provisions of the Town's current ordinances and regulations which are inconsistent or conflicting with the provisions of this Moratorium Ordinance are hereby repealed, to the extent that they are applicable, for the duration of the Moratorium Ordinance hereby ordained, but not otherwise.
5. **EXTENSIONS.** This moratorium may be extended for additional 180 day periods by the Select Board of the Town of Alna, after proper notice and hearing, if a majority of the Select Board present and voting at such meeting find that: (i) the problems giving rise to the need for this moratorium still exist; and (ii) reasonable progress is being made to address and alleviate the problems giving rise to the need for this moratorium.
6. **SEVERABILITY.** To the extent that any section or paragraph of this Moratorium Ordinance shall be declared invalid for any reason by a court of competent jurisdiction, the remaining provisions herein shall remain valid.
7. **VIOLATIONS.** If any Mineral Extraction Facility or Operation is located or operated in the Town, in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Attest: _____
Ed Pentaleri, Select Board Member
Town of Alna

Attest: _____
Linda Kristan, Select Board Member
Town of Alna

Attest: _____
Charlie Culbertson, Select Board Member
Town of Alna