

**TOWN OF PROSPECT  
MORATORIUM ORDINANCE ON MINERAL EXTRACTION**

WHEREAS, the Town of Prospect (hereinafter "the Town") does not have a zoning ordinance and does not comprehensively regulate land use activities within the town;

WHEREAS, areas within the town which are suitable for mineral extraction are located within close proximity to a variety of residential and commercial uses;

WHEREAS, quarrying, mineral extraction and related blasting activities often produce noise, dust and runoff which may be incompatible with residential and commercial development;

WHEREAS, the significant clearing and earth moving associated with quarrying and mineral extraction may lead to increased runoff and both surface and groundwater pollution;

WHEREAS, the Town currently lacks any ordinance or related standards to address the potential negative impacts of mineral extraction activities;

WHEREAS, the Town's Planning Board has been developing an ordinance governing mineral extraction activities but the Board of Selectmen finds that more work is needed before the ordinance may be submitted to the voters;

WHEREAS, allowing such mineral extraction activities pursuant to the current Town ordinances could pose serious threats to the public health, safety and welfare of the residents of the Town by allowing such activities to be conducted without adequate provisions for issues of safety, noise, vibration, dust, groundwater protection, setback distances, land use compatibility, and screening;

WHEREAS, the Town will require at least one hundred eighty (180) days to develop and implement ordinance standards to adequately address the impacts of mineral extraction activities; and

WHEREAS, in the judgment of the Town, these facts justify the enactment of the present moratorium pursuant to 30-A M.R.S. § 4356 because existing Town ordinances are inadequate to prevent serious public harm from mineral extraction activities within the Town;

NOW, THEREFORE, a MORATORIUM is hereby imposed for a period of one hundred eighty (180) days on any new or expanded mineral extraction or blasting that is not currently permitted by written permit received from the Town or State, approved and/or under construction.

For the purposes of this Moratorium, "mineral extraction" shall be defined as "the removal, processing and storage of topsoil, loam, rock, sand, gravel, stone and other earth materials." and "blasting" shall be defined as "the use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formation, as associated with Mineral Extraction."

BE IT FURTHER ORDAINED, that if any activities described herein are conducted 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 in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that the Planning Board, Board of Appeals, Code Enforcement Officer and all Town agencies and all Town employees and officials shall neither accept nor approve applications, plans, permits, licenses, and/or fees for any new activities governed by this Moratorium Ordinance for the period of time described below;

BE IT FURTHER ORDAINED, that any provisions of the Town's ordinances that 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 hereby ordained;

BE IT FURTHER ORDAINED, that this Moratorium Ordinance may be extended by the Board of Selectmen, after notice and hearing, for additional 180-day periods if the Board finds that:

1. The problem giving rise to the need for this Moratorium Ordinance still exists; and
2. Reasonable progress is being made to alleviate the problem giving rise to the need for this Moratorium Ordinance;

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid;

BE IT FURTHER ORDAINED, that, in view of the facts cited herein, this Moratorium Ordinance shall take effect immediately upon approval by the Town of Prospect town meeting and, notwithstanding the provisions of 1 M.R.S. § 302, shall be applicable, to the maximum extent permitted by law and subject to the severability clause above, to all proceedings, applications and petitions not finally approved as of June 5, 2018, the date upon which this Moratorium Ordinance was first discussed by the Board of Selectmen. It shall also apply to all activities subject to this Moratorium Ordinance which were not substantially commenced prior to June 5, 2018. This Moratorium Ordinance shall remain in effect for 180 days from the date of enactment, unless sooner repealed or extended by the Board of Selectmen.