

Town of Hope Proposed Metallic Mining Activities Ordinance Moratorium

WHEREAS, neighboring towns have been approached by an international mining company which has requested permits for exploration, advance exploration, mining, and/or extraction of metallic minerals particularly in areas near or adjacent to a great pond, and the Town of Hope borders at least one of these towns; and

WHEREAS, residents and officials of the Town of Hope have expressed concerns about the need to review and update the existing Land Use Ordinance with regard to recent inquiries for mineral exploration, advanced exploration and mining operations, extracting operations, including concerns regarding quality of life, adjacent property values, health and safety concerns, decommissioning liabilities and costs, visual impacts, and environmental concerns. The exploration for and mining of metallic minerals and the location of such facilities are not specifically regulated by any Town Ordinances. The process of exploration and extraction of metallic minerals has the potential to be environmentally damaging to the Town's water, groundwater, soil, and the general environment of the Town. The potential for contaminating property and environmental damage exists with regard to these activities and needs to be properly regulated and located. Based on these circumstances, the Town makes a finding that the level of necessity required to support a Moratorium Ordinance due to lack of appropriate regulation does, in fact, exist and that a Moratorium is in the best interest of the general health, welfare, and safety of the inhabitants of the Town of Hope.

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

WHEREAS, in 2011, as amended in 2017, the State of Maine adopted the Maine Metallic Mineral Mining Act (38 M.R.S. 490-LL, et seq.), which specifically provides municipal authority for the Town of Hope to regulate and control mining, including but not limited to, construction, operation, closure, post-closure monitoring, reclamation and remediation activities, all of which the Town has not addressed since the passage of the Maine Metallic Mineral Mining Act, which needs to be done to protect the health, safety and welfare of the residents of Hope and the environment; and

WHEREAS, the Town of Hope needs at least 180 days to consider, develop and/or amend current ordinances, including the land use ordinance, the shoreland zoning ordinance. The Town finds that current standards as stated in the Maine Metallic Mining Act merely require "reasonable assurance" that a permitted activity will not violate water quality, and "will not unreasonably cause or increase flooding," and merely "adequate provision for protection of

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public safety” are not sufficiently satisfactory standards for the Town of Hope and the Town finds that it must review and examine its local ordinances to better safeguard the natural resources and population; and

WHEREAS, in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S. §4356 requiring an immediate moratorium on any new or expanded metallic mining and exploration activities for the preservation of the public health, safety, and welfare.

NOW, THEREFORE, based upon the proceeding findings, be it ordained by the Town of Hope, the following Metallic Mining and Exploration Moratorium Ordinance (Moratorium Ordinance) be, and hereby is, enacted and, in furtherance thereof, the Town does hereby declare a moratorium on all metallic mining and exploration within the Town.

1. Authority. This Moratorium Ordinance is enacted pursuant to 30-A M.R.S. §4356 and the Town of Hope’s home rule authority pursuant to the Maine Constitution 30-A M.R.S. §3001.
2. Purpose. The purpose of this Moratorium Ordinance is to allow Town officials and staff reasonable time to evaluate the concerns raised in regard to proposed Metallic Mining and Exploration Activities and to develop necessary Land Use Ordinance amendments to provide adequate protection for the property, health, welfare, and safety of the Town of Hope’s residents to address these concerns.
3. Definition. For the purposes of the Moratorium Ordinance, Metallic Mining Activities and Exploration shall use all of the same definitions found in 38 M.R.S. §490-MM. This Moratorium will not apply to the excavation, processing, or quarrying of sand, fill, gravel, topsoil, peat, silt, or rock not associated with metallic mineral mining.
4. Effective Date. This Moratorium Ordinance shall take effect once enacted by the Town of Hope at the Annual Town Meeting, but notwithstanding the provisions of 1 M.R.S. § 302, shall be applicable upon adoption by the Legislative Body at the Annual Town Meeting as expressly provided in Section 5.
5. Applicability. Notwithstanding the provisions of 1 M.R.S. §302 or any other law to the contrary, this Moratorium Ordinance, when enacted, shall govern any proposed Metallic Mining and Exploration Activities for which an application for approval has not been deemed complete by the Planning Board and has not been the subject of at least one substantive review meeting by the Planning Board prior to the date of the Annual Town Meeting, the Applicable Date of this Moratorium Ordinance.

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6. Duration of Moratorium. The moratorium shall remain in effect for one hundred and eighty (180) days from the effective date of this Moratorium Ordinance, unless extended, repealed, or modified by the Town Select Board under 30-A M.R.S. §4356.

7. Prohibition. A moratorium is hereby imposed, effective immediately. The exploration for and/or extraction of industrial metallic minerals, whether permanent or temporary, and any activity associated with the exploration and/or mining, within the Town of Hope is hereby prohibited and the Town shall issue no license, permit, or approval relative to the exploration for or mining of metallic minerals. (as defined by 1 M.R.S. §302.) During the time this Moratorium Ordinance is in effect, no officer, official, employee, office, board, or agency of the Town of Hope shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of zoning, planning, or land use approval or permit.

8. Notification. Upon adoption of this Ordinance by the voters of the Town of Hope, the Select Board shall notify the State of Maine and its various agencies of the extent of the Moratorium and request that the prohibited activities not be approved, and that any State determination on these activities be deferred during the period of the Moratorium or extension thereof.

9. Enforcement. If any Metallic Mining Activities are established in contravention of this Moratorium Ordinance, the Select Board is hereby authorized to institute any and all actions, either legal or equitable, that they deem necessary or appropriate to enforce the provisions of this Moratorium Ordinance. Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S. § 4452. Each day of violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Hope. Any violation of this Moratorium Ordinance constitutes a nuisance.

10. Severability. Should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.