

TOWN OF MONTVILLE
MAJOR RESIDENTIAL DEVELOPMENT PROJECT MORATORIUM ORDINANCE

Section 1. Definitions.

Major Development means a Residential Subdivision or Mobile Home Park Development Project, involving the new construction, enlargement or expansion of 5 or more units on a single lot for residential use and/or the creation of 6 or more lots on an area of 50 acres or more for any purpose.

Residential means the use or occupation of property for human habitation/living accommodations.

Residential Development Project means a project involving the construction, enlargement or expansion of dwelling units, or the division of land into lots, for residential use.

Town means the Town of Montville, a municipal corporation organized and existing under the laws of the State of Maine.

Section 2. Moratorium Declared.

WHEREAS, the Town's Comprehensive Plan is over 30 years old, developed in 1991 and is inadequate in its consideration of new Major Development proposals; and

WHEREAS, the Subdivision Ordinance and Mobile Home Park Ordinance is over 30 years old, developed in 1995, and is inadequate to prevent serious public harm from major subdivisions that may occur due to adverse impacts to natural resources; and

WHEREAS, the Town's Subdivision and Mobile Home Park Ordinance does not include adequate design standards or guidance to address a Major Development proposal; and

WHEREAS, all properties in the Town rely on wells and ponds for drinking water supply; and

WHEREAS, properties in the Town rely on septic systems for wastewater treatment and disposal; and

WHEREAS, land use activities adjacent to or within ponds, lakes and river watersheds can, and do, have far-reaching implications for the water quality; and

WHEREAS, the quality of the Town's lakes, ponds, and wildlife habitat depends in part on managing the type and extent of impacts from new Major Development Projects; and

WHEREAS, the scale and impact of Major Development Projects were unanticipated and have not been adequately provided for in the Town's Comprehensive Plan or Ordinances; and

WHEREAS, there is a strong likelihood that the Town may be subjected to Major Development pressure due to the high demand for housing and the existence of undeveloped land; and

WHEREAS, development of Major Development Projects without adequate Land Use Ordinances could pose serious threats to the public health, safety, welfare and quality of life of the residents of Montville, including the lack of adequate provisions for land use compatibility, design standards, phosphorous control and water quality protection, roads impact, wildlife impact and general environmental degradation; and

WHEREAS, the Town's current state of ordinances and other regulations applicable to Major Development Projects necessitates a moratorium to improve the land use standards; and

WHEREAS, the Town will need at least 180 days to study its ordinances and consider the land use amendments to address these development pressures; and

WHEREAS, adoption of an ordinance or ordinance amendment requires a public hearing by the Planning Board and possibly by the Select Board, and then must be voted upon at a Town Meeting; and

WHEREAS, in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S. § 4356(1)(B) and requires this Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town hereby ordains that this Moratorium Ordinance be, and hereby is, enacted, and in furtherance thereof, the Town does hereby declare a moratorium on development proposals involving any Major Development Project. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Moratorium Ordinance, unless extended by the Select Board in accordance with the following paragraph, for the express purpose of creating, drafting an amendment or amendments to Town ordinances to protect the public from health and safety risks including, but not limited to, the potential ground or surface water pollution risks including increased phosphorous runoff, and other environmental degradation effects of development proposals involving Major Development Projects if not properly regulated; and

BE IT FURTHER ORDAINED, that, in accordance with 30-A M.R.S. § 4356(2) and (3), the Select Board may extend this moratorium for additional periods of not more than one hundred and eighty (180) days each, after notice and public hearing, if the Select Board finds that (a) the problem giving rise to the need for the moratorium still exists and (b) reasonable progress is being made to alleviate that problem; and

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply to any new development proposals involving a Major Development Project after the applicability date of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that 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 for a license, building permit, site plan review and/or any other required land use approval, and/or any other permits, licenses or approvals related to a Major Development Project that is submitted after the applicability date of this Moratorium Ordinance and during the term of the moratorium, it being the intent of this Moratorium Ordinance to suspend only the Town's processing and issuance of such approvals and not to affect any permit, license or approval required from a State or federal agency; and

BE IT FURTHER ORDAINED, that those provisions of the Town's Subdivision, Mobile Home Park and Site Plan Review Ordinances or any other ordinance that are inconsistent or conflicting with the provisions of this Moratorium Ordinance, including, without limitation, the requirements for review by the Code Enforcement Officer and/or Planning Board, are hereby suspended to the extent that they are applicable during the duration of the moratorium hereby ordained, but not otherwise, and provided that nothing in this paragraph suspends, amends or overrides any requirement of State law, including without limitation the subdivision statutes, 30-A M.R.S. § 4401 et seq., and the Mandatory Shoreland Zoning Act, 38 M.R.S. § 435 et seq.; and

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; and

BE IT FURTHER ORDAINED, the Select Board is hereby authorized to institute any and all actions, either legal or equitable, that it deems necessary or appropriate to enforce the provisions of this Moratorium Ordinance.

Section 3. Violations; Civil Penalties.

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 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 in accordance with 30-A M.R.S. § 4452, injunctive relief, and its reasonable attorney fees and costs in prosecuting any such violations.

Section 4. Effective Date; Applicability Date.

This Moratorium Ordinance shall take effect immediately upon passage by Town Meeting. The applicability date of this Moratorium Ordinance is the effective date of this Moratorium Ordinance.