

## **Town of Beals Moratorium Ordinance – Aerospace Development**

*Legal Authority: 30-A M.R.S. §§ 3001, 4356*

The TOWN OF BEALS, MAINE, through its legislative body, adopts the following Moratorium Ordinance:

WHEREAS, an aerospace development has been proposed that would involve the land of and waters surrounding the Town of Beals, including proposed exclusion zones preventing boat traffic; and

WHEREAS, aerospace development could become a common trend to launch rockets for exploration of space or other uses unknown; and

WHEREAS, the proposed temporary closure of coastal waters during launch and retrieval operations may unreasonably interfere with traditional use of coastal waters for fisheries and recreation; and

WHEREAS, the Town presently does not have an ordinance addressing the development and operation of aerospace facilities, including the launching of rockets or other launch vehicles and retrieval of such vehicles or payloads; and

WHEREAS, the Town's Comprehensive Plan does not anticipate such development; and

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

WHEREAS, the Town needs time to gather information on the impact of aerospace development on the environment and public health and welfare; and

WHEREAS, the Town needs time to review its existing ordinances to develop reasonable provisions addressing those impacts and governing aerospace development; and

WHEREAS, one of the options available to the Town includes passage of an ordinance with retroactive effect, notwithstanding the provisions of 1 M.R.S. § 302, subject to the restrictions of 30-A M.R.S. § 3007(6); and

WHEREAS, amendments to the Land Use Ordinance, if they are deemed appropriate, require a public hearing and report by the Planning Board, and certification by the Select Board, and then must be presented for vote at a Town Meeting; and

WHEREAS, in the judgment of the Town, these facts create necessity within the meaning of 30-A M.R.S. § 4356 and require passage of a Moratorium Ordinance as necessary for the preservation of public health, safety, and welfare; and

NOW, THEREFORE, the Town of Beals hereby ordains this Town of Beals Moratorium Ordinance – Aerospace Development be enacted:

**I. Authority & Purpose:** This Moratorium Ordinance is enacted pursuant to 30-A M.R.S. § 4356, the Town of Beals’s home rule authority pursuant to the Maine Constitution and 30-A M.R.S. § 3001, and for the purposes identified above.

**II. Definition:** The following definition shall be used in the interpretation and construction of this Moratorium Ordinance:

“Aerospace Development” shall mean any commercial facilities, including spaceports, launch sites, command centers, workforce housing, offices, and exclusion and retrieval areas, located on land or in, on, or under coastal waters, that involve or support the development, launch, reentry, or retrieval of flight vehicles or payloads in air or space, and are subject to the licensing and permitting power of the Federal Aviation Administration.

**III. Moratorium on Aerospace Development:** The Town hereby declares and imposes a moratorium prohibiting the development of any Aerospace Development within the boundaries of the Town of Beals. No person or organization shall develop or operate an Aerospace Development within the Town of Beals.

**IV. Moratorium on Processing Applications:** No officer, employee, official, board, or body of the Town of Beals, including without limitation the Town of Beals Planning Board, Board of Appeals, or Code Enforcement Officer, shall accept, issue, act upon or approve applications, plans, permits, licenses, building permits, certificates and/or fees for any projects, developments, construction or uses for or directly related to the development, construction, siting, or operation of an Aerospace Development.

**V. Severability:** Any provisions of the Town’s Land Use Ordinance and regulations which are inconsistent or conflicting with the provisions of this Moratorium Ordinance, including, without limitation, the requirements for special use permit review by the Planning Board, and appeals by the Board of Appeals, are hereby suspended in their effect to the extent that they are applicable for the duration of the Moratorium Ordinance hereby ordained, but not otherwise. 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.

**VI. Effective Date, Term & Retroactivity:**

A. This moratorium shall take effect immediately upon passage by the Town Meeting and extend for the shorter of the following periods: (a) 180 days from date of passage; or (b) immediately upon its repeal by a duly called Town Meeting.

B. This moratorium may be extended for successive 180 day periods by vote of the Select Board as permitted by 30-A M.R.S. § 4356, after notice and hearing, if the Select Board finds that the problem giving rise to the need for the moratorium still exists and that reasonable progress is being made to alleviate it. The moratorium may also be extended at any duly called Town Meeting within the moratorium period and at which an article adopting such an extension and the subsidiary findings required by law passes.

C. 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 all filed, pending, or future applications and petitions for Aerospace Development which have not received all necessary permits, licenses, certificates, and/or approvals from the Town of Beals and paid all necessary fees, and all proposed Aerospace Development that was not fully operational and/or did not have all the required State permits as of January 1, 2022.

**VII. Enforcement:** The Municipal Officers are 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.A. § 4452. Any violation of this Moratorium Ordinance constitutes a nuisance. Each day of violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Beals.

Effective Date: March 21<sup>st</sup>, 2022

A True Copy: Attest

BOARD OF SELECTMEN

Terry L. Beal  
Municipal Clerk  
Town of Beals, Maine

Paula Gerber McCormack

Jenny M. Fagonde

Sarah K. Alley