

TOWN OF ORLAND
EMERGENCY ORDINANCE ESTABLISHING A MORATORIUM
ON THE TRANSFER, ABANDONMENT, REMOVAL, OR UNREGULATED
RELEASE OF IMPOUNDED WATERS OF DAMS

WHEREAS, the Town of Orland ("the Town") finds and declares that the transfer, abandonment, removal, or unregulated release of impounded waters from a dam within the limits of the Town may pose a substantial risk to the safety and well-being of the inhabitants and businesses of the Town; and

WHEREAS, the Town finds and declares that transfer, abandonment, removal, or unregulated release of impounded waters from a dam within the limits of the Town may pose a substantial risk of flooding and property damage to inhabitants and businesses of the Town; and

WHEREAS, the Town finds and declares that transfer, abandonment, removal, or unregulated release of impounded waters from a dam within the limits of the Town may pose a substantial risk of loss of value to properties of the inhabitants and businesses within the Town; and

WHEREAS, the Town's existing ordinances do not provide an adequate mechanism to regulate and control the transfer, abandonment, removal, or unregulated release of impound waters from dams in the Town and are inadequate to prevent the potential for serious public harm; and

WHEREAS, the Town needs a reasonable amount of time to continue to study the implications related to the transfer, abandonment, removal, or unregulated release of impound waters from dams and to develop reasonable regulations governing their location and operation; and

WHEREAS, during the term of this Moratorium Ordinance, the Town will work on developing appropriate regulations concerning the transfer, abandonment, removal, or unregulated release of impound waters from dams; and

WHEREAS, the Town finds that, to ensure and protect the public safety, health, and welfare of its inhabitants, to prevent damage to property and loss of property, and to prevent the creation of a nuisance and avoid dangerous conditions, the Town hereby enacts this moratorium; and

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S. § 4356, be it hereby ordained by the Town of Orland as follows:

1. APPLICABILITY AND PURPOSE.

Notwithstanding the provisions of 1 M.R.S. § 302, this Moratorium Ordinance shall apply to any proposal to transfer, abandon, remove, or release impound waters from a dam in the Town of Orland, whether or not an application or a proceeding to transfer, abandon, or release impound waters from a dam would be deemed a pending proceeding under 1 M.R.S. § 302.

2. MORATORIUM.

During the time this Moratorium Ordinance is in effect, no official, officer, board, body, agency, agent, or employee of the Town of Orland shall accept, process, or act upon any application for any approval, including but not limited to a land use approval, license, or any other approval, relating to the transfer, abandonment, removal, or release of impounded waters from a dam in the Town. No person shall transfer, abandon, remove, or release impounded waters (other than in the regular and historic water level management of the dam and impoundment) from a dam in the Town during the term of this Moratorium Ordinance.

3. DEFINITIONS.

For the purposes of this Moratorium Ordinance, a “dam” is a man-made structure that impedes the flow or movement of water. An “impoundment” is the lake, stream, pond, and/or portions of a river, stream, brook, or wetland with water flow impeded by a dam.

4. ENFORCEMENT VIOLATION AND PENALTIES.

This Moratorium Ordinance shall be enforced by the Code Enforcement Officer of the Town of Orland. Any person who violates this Moratorium Ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S. § 4452.

5. EFFECTIVE DATE.

This Moratorium Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless extended by the Town’s Select Board or otherwise extended, repealed, or modified by the Town through a Town Meeting.

6. SEVERABILITY.

Should any section or provision of this Moratorium Ordinance be declared invalid by any court, such a decision shall not invalidate any other section or provision.