

## TOWN OF LOWELL MAINE

### EMERGENCY MORATORIUM ON BUILDING CONSTRUCTION WITHIN 350 LINEAL FEET OF TOWN SALT/SAND SHED PROPERTY

BE IT ENACTED BY THE SELECTMEN, TOWN OF LOWELL:

That, Whereas the Town owns a certain lot or parcel of land delineated as Tax Map 3 , Lot 43 , on which the Town has for many years maintained a salt/sand pile; and

Whereas, a lawsuit recently filed against the Town alleges that salt from the Town's property has leached into the ground and/or groundwater, and contaminated a nearby well; and

Whereas, although the Town denies any alleged contamination, nevertheless, there is a risk that construction close to the area where salt and sand is stored could be affected by any contamination or leachate; and

Whereas, further study of the safety and feasibility of construction near the town's property, especially in light of construction of the new salt/sand shed, which may change the risk, is desirable and necessary;

Now therefore, it is determined that these facts constitute an emergency, justifying, in the exercise of the police power and home rule authority of the Town, passage of a moratorium on construction near the Town's salt/sand pile, so as to avoid the risk of property damage or claims, and unnecessary risk to the health and safety of citizens;

It is hereby enacted by the Town of Lowell a "Construction Moratorium Ordinance" as follows:

1. For a period of two (2) years from the date of this ordinance, no person or entity shall construct any building, including but not limited to dwellings, nor shall they expand any existing building, located within three hundred fifty feet (350'), measured lineally, from any property line of the existing salt/sand pile property on Tax Map 3 , Lot 43 .

2. The Code Enforcement Officer shall be charged with enforcement of this Ordinance. All persons found to be in violation may be served by the Code Enforcement Officer with a violation/stop work order. Each and every day that any work proceeds after service of a stop work order shall be deemed a separate violation.


3. The Selectman may, from time to time, in such manner as they deem appropriate, investigate and monitor ground water conditions, and alleged leaching of salt into the groundwater, to determine if further extension of the moratorium is necessary, and if construction of the salt/sand shed has changed or lessened any risk of contamination. Any findings shall be presented in report form, and made available at the time of any vote to extend the moratorium, as set forth in paragraph 4.

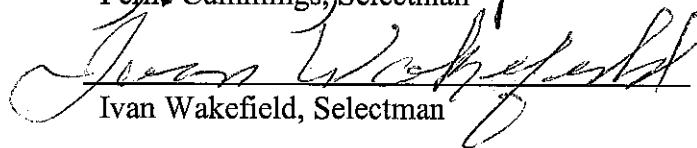
4. This Ordinance shall expire two (2) years from enactment, unless extended or made permanent by vote at a duly called Town Meeting.

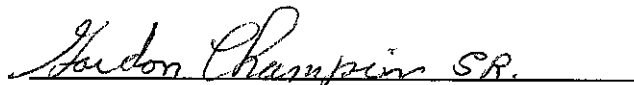
5. Any person or firm violating this ordinance shall be fined not less than \$250.00, nor more than \$5,000.00, and shall also be liable in a land use action for the attorney's fees and costs of the Town. The court may, on application of the town, and upon a showing of violation, obtain appropriate injunctive relief.

6. The salt/sand shed to be constructed on the lot shall not be subject to the prohibition of this ordinance.

DATE: 06-26-03

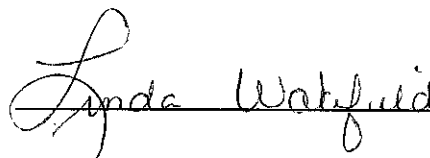
  
Fern Cummings, Selectman

  
Ivan Wakefield, Selectman

  
Gordon Champion, Sr., Selectman

Town Clerk's Certification

I, Linda Wakefield, duly elected and acting Town Clerk for the Town Of Lowell, Maine, hereby certify that the foregoing building moratorium ordinance, was duly passed as an emergency measure by the vote of the Board Of Selectmen, Town Of Lowell, at a regular (special) meeting of the Board of Selectmen held at the Town Office on 6/24, 2003, which meeting was duly posted and publicized in accordance with law.

  
Linda Wakefield L.S.