

**TOWN OF NEW SHARON MORATORIUM  
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS  
AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, a ballot initiative to legalize, regulate, and tax marijuana for non-medical purposes known as the “Marijuana Legalization Act,” proposed to be codified in the Maine Revised Statutes in Title 7, Chapter 417, will be voted on by a State-wide referendum election on November 8, 2016; and

WHEREAS, the proposed Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the proposed Act, as well as the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities within its jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§2421 - 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities; and

WHEREAS, the outcome of the State-wide referendum vote is yet to be determined and the Town’s current ordinances do not include any regulations related to retail marijuana establishments or retail marijuana social clubs under the proposed new Act, nor any regulations related to products or merchandise associated with the use, cultivation, retail sales, manufacturing or distribution of marijuana and retail stores that specialize in offering such paraphernalia for sale to consumers; and

WHEREAS, areas of the Town are suddenly under threat of increased development pressure from one or more marijuana businesses as defined above; this development pressure was unanticipated and has not been adequately provided for in the Town’s current ordinances regulating land use and site location of development; there is a strong likelihood that all areas of the Town will continue to be subjected to this development pressure due to the amount of undeveloped land, the nonexistence of any regulations or restrictions on the locations of said marijuana businesses, and the relatively low land prices of much of the land in the Town; development of said marijuana businesses pursuant to existing town ordinances could pose serious threats to the public health, safety and welfare of the residents of the Town through the over-development of parts of Town with such businesses without adequate provisions for issues of safety, and land use compatibility, and gateway issues; there appears to be strong support among Town residents for this Moratorium Ordinance; the Town will require at least 180 days to develop and implement the necessary amendments to zoning and land use ordinances and regulations to accommodate these development pressures; ordinance amendments and new ordinances may require public hearings by the Planning Board and the Board of Selectmen, and must in any event be reviewed and adopted at a Town Meeting; and in the

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

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town raises legitimate and substantial questions about the impact of such establishments and social clubs on the Town, including questions of the compatibility of retail marijuana establishments and social clubs with existing uses and development; the possible connection of retail marijuana dispensaries; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sales and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana social clubs within the Town has serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town needs times to review the proposed Act in anticipation of the election and to review its own Comprehensive Plan and ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable regulatory measures and ordinances governing the location and operations of such retail marijuana establishments and social clubs to address the concerns cited above; and

WHEREAS, the Town, under its home rule authority, its police power generally, and under 30-A M.R.S.A., Chapter 187, Subchapter 3, ("Land Use Regulation"), as provided by the proposed new Act, or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on such retail marijuana establishments and social clubs; and

WHEREAS, with the professional advice and assistance of the Franklin County Sheriff's Office and the Maine State Police, the Town, by and through its Selectmen, Planning Board and Code Enforcement Officer, shall study the Town's current Comprehensive Plan and ordinances to determine the land use and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such users; and

WHEREAS, the Town's current ordinances and other applicable local laws are not adequate to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law

to be voted on in the November 8, 2016 referendum election, thereby necessitating a moratorium; and

WHEREAS, a moratorium is necessary to allow the Town to analyze and plan properly for any future retail marijuana establishments and social clubs and other uses authorized by the proposed change in law and to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by said proposed change in law to be voted on in the November 8, 2016 referendum election, being located in the Town; and

WHEREAS, it is anticipated that the study, review, and development of recommended ordinance amendments or additions will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs;

NOW THEREFORE, be it ordained by the Town, that the following Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs be, and hereby is, enacted, and in furtherance thereof, the Town does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

In addition, the Town does hereby declare a moratorium on the location, operation or licensing of any new medical marijuana cultivation facilities or dispensaries and the expansion of any existing medical marijuana cultivation facilities or dispensaries, as may be permitted or allowed by any Town ordinance, within the Town. This Ordinance does not impose a moratorium on the cultivation and provision of medical marijuana by licensed caregivers who have been doing so on or before November 8, 2016 and in compliance with State law existing prior to November 8, 2016, except with respect to expansions of the same.

This Moratorium Ordinance shall take effect, once enacted by the legislative body of the Town, but shall be applicable as of the day of its posting with the warrant for the Town meeting at which it is enacted, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town or its Selectmen, as provided by law, for the express purpose of drafting an amendment or amendments to the Town's current ordinances to protect the public from health and safety risks including, but not limited to, the possible incompatibility of retail marijuana establishments and social clubs with existing and permitted land uses in the Town; the distribution of retail marijuana establishments and social clubs relative to medical marijuana cultivation facilities and dispensaries; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal

purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana social clubs and marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the proposed "Marijuana Legalization Act" to be codified, if passed, at 7 M.R.S.A. §§2442(36), (39), (40), that may be proposed to be located within the Town on or after the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, the Town Planning Board will study said marijuana businesses and any of their effects on public health, safety, and welfare, and the laws and experience of other jurisdictions, and will research, develop, and recommend ordinances and amendments to existing ordinances in order to regulate those businesses in ways that will minimize any deleterious effects on public health, safety, and welfare. In accomplishing its work, the Planning Board may also consider and recommend zones or districts of the Town in which marijuana businesses may most appropriately be allowed, as well as zones or districts from which they should be excluded. The Planning Board will conduct at least one public hearing in the course of its work, and will make preliminary findings and recommendations and share them with the Board of Selectmen, who will then develop and post a warrant for a town meeting to consider ordinance enactment or other legislative action.

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. §302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board, or other Town official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the Town on or after the applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a new medical marijuana cultivation facility or dispensary that may be currently permitted under the Town's ordinances, within the Town on or after the applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town may enact as a result of the Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a

business that engages in retail or wholesale of products or merchandise for which a substantial portion of its business is to prepare, cultivate, distribute or ingest marijuana or retail or wholesale sales of such products or merchandise of the kind that are commonly offered for sale or used at so-called head shops, retail marijuana social clubs or retail marijuana establishments, including, without limitation, water pipes, hashish pipes, glass pipes, pipe screen, bongs, vaporizers, scales, rolling papers, hydroponic equipment and grow lights and general tobacco products in so-called smoke shops; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, issue, approve, deny, or in any way act upon any application for a license, building permit, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to a retail marijuana establishment, retail marijuana social club, a new medical marijuana cultivation facility or dispensary, or the expansion of an existing medical marijuana cultivation facility or dispensary; and

BE IT FURTHER ORDAINED, that those provision of the Town's current ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments, retail marijuana social clubs, new medical marijuana cultivation facilities or dispensaries, or expansions of existing medical marijuana cultivation facilities or dispensaries are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including those provided in 30-A M.R.S.A. §4452, and including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that the provisions of this moratorium shall be construed liberally to address the findings and to accomplish the policies established herein, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: On November \_\_\_\_, 2016, its applicability date, this Ordinance was posted with the warrant for the special town meeting to be held on \_\_\_\_\_, 2016.

History of Enactment:

November 11, 2016 enacted for 180 days at a Special Town Meeting. Expiration 5/16/17.

May 16, 2017 extended for 180 days at the regular meeting of the Board of Selectmen. Expiration 11/16/17.

November 8, 2017 extended for 180 days at the regular meeting of the Board of Selectmen. Expiration 5/16/18.

May 1, 2018 extended for 180 days at the regular meeting of the Board of Selectmen. Expiration 11/7/18.

November 7, 2018 extended for 180 days at the regular meeting of the Board of Selectmen. Expiration 5/7/19.

May 7, 2019 extended for 180 days at the regular meeting of the Board of Selectmen. Expiration 11/7/19.