

**TOWN OF FARMINGTON MORATORIUM ORDINANCE EXTENSION
FOR ADULT USE AND MEDICAL MARIJUANA STORES, CULTIVATION
FACILITIES, MANUFACTURING FACILITIES, AND TESTING FACILITIES**

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

WHEREAS, the outcome of the State-wide referendum vote is determined and the Town's current ordinances do not include any regulations related to Adult Use marijuana stores, Adult Use marijuana cultivation facilities, Adult Use marijuana manufacturing facilities, and Adult Use marijuana testing facilities under the new Act, nor any regulations related to products or merchandise associated with the use, cultivation, retail sales, manufacturing, testing, or distribution of nonmedical marijuana, and retail stores that specialize in offering such paraphernalia for sale to consumers; and

WHEREAS, the Act authorizes municipalities to regulate the number of Adult Use marijuana stores, Adult Use marijuana cultivation facilities, Adult Use marijuana manufacturing facilities, and Adult Use marijuana testing facilities, as those terms are defined in the Act, as well as the option to prohibit the operation of Adult Use marijuana stores, Adult Use marijuana cultivation facilities, Adult Use marijuana manufacturing facilities, and Adult Use marijuana testing facilities within its jurisdiction; and

WHEREAS, on May 2, 2018, the Maine Legislature enacted PL 2017, c. 409 (LD 1719), *An Act to Implement a Regulatory Structure for Adult Use Marijuana*, which includes express authorization for the operation of adult use marijuana stores, adult use marijuana cultivation facilities, adult use marijuana manufacturing facilities, and adult use marijuana testing facilities; and

WHEREAS, on July 9, 2018, the Maine Legislature enacted PL 2017, c. 452 (LD 1539), *An Act to Amend Maine's Medical Marijuana Law*, which includes express authorization for the operation of retail stores by registered caregivers to sell marijuana to qualifying patients, as well as authorization for the operation of medical marijuana manufacturing facilities, medical marijuana testing facilities, and six additional registered medical marijuana dispensaries; and

WHEREAS, on July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 238), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregivers, registered dispensaries, testing facilities, and manufacturing facilities; and

WHEREAS, areas of the Town are under development pressure from one or more marijuana businesses as defined above; this development pressure has not yet 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, land use compatibility, and gateway issues; there appears to be strong support among town residents for this Moratorium Ordinance extension; the Town will require an additional one hundred and eighty (180) days to develop, adopt and implement an ordinance and application to regulate marijuana businesses, and to develop, adopt, and implement the necessary amendments to its zoning and land use ordinances and regulations to accommodate these development pressures; ordinance amendments and new ordinances will require public hearings by the Planning Board, Zoning 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. 4356(1)(B) and require this Moratorium Ordinance extension as immediately necessary for the preservation of the public Health, safety and welfare; and

WHEREAS, the unregulated location and operation of Adult Use and Medical marijuana businesses within the Town raises legitimate and substantial questions about the impact of such establishments on the Town, including questions of the compatibility of Adult Use and Medical marijuana businesses with existing uses and development; the potential adverse health and safety effects of Adult Use and Medical marijuana businesses 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 Adult Use and Medical marijuana businesses; and

WHEREAS, the possible effect of the location and operation of Adult Use and Medical marijuana businesses within the Town has serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, at its regular meeting on January 24, 2017, the Town's Board of Selectmen discussed the Town's options with regards to regulating Adult Use marijuana; and

WHEREAS, at its regular meeting on June 17, 2017, the Town's Board of Selectmen engaged an intern to draft an Adult Use marijuana ordinance; and

WHEREAS; at its regular meetings on March 13, 2017, June 12, 2017, July 10, 2017, September 11, 2017, October 16, 2017, November 13, 2017, December 11, 2017, January 23, 2018, February 12, 2018, May 14, 2018, June 11, 2018, and July 9, 2018 the Town's Planning Board has been reviewing drafts of Town ordinances and regulations for the location, operation, and licensing of Adult Use and Medical marijuana businesses and other uses authorized by changes in State law approved by the November 8, 2016 referendum election, and subsequent legislative enactments and implementation including State laws regarding Adult Use and Medical marijuana dated May 2, 2018 and July 9, 2018; and

WHEREAS, the Town's Code Enforcement Office and Planning Board are still in the process of drafting the Town's Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance, an application for Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities, and proposed Zoning Ordinance Table of Uses amendments regarding Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities; and

WHEREAS, at its regular meeting on October 24, 2017, the Town's Board of Selectmen reviewed the Draft Town of Farmington Adult Use Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance; and

WHEREAS, at its regular meeting on September 25, 2018, the Town's Board of Selectmen reviewed the Draft Town of Farmington Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance; and

WHEREAS, at its meeting on July 17, 2018, the Town's Zoning Board reviewed the proposed Zoning Ordinance Table of Uses Amendments Regarding Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities, and

WHEREAS, the State Legislature is still in the process of implementing the regulatory framework necessary to administer adult use marijuana law and changes in medical marijuana law on a state-wide level; and

WHEREAS, THE Town is still reviewing LD 1719, LD 1539, and LD 238 in preparation for their implementation, and reviewing its Comprehensive Plan and ordinances, to determine the implications of future Adult Use and Medical marijuana businesses and to develop reasonable regulatory measures and ordinances governing the location and operations of such Adult Use and Medical marijuana businesses to address the concerns cited above in light of the State regulatory framework; and

WHEREAS, the Planning and Zoning Boards need additional time to review the regulatory framework emerging from the State Legislature or the State Department of Health and Human Services for compatibility with its own draft ordinances and ordinance amendments prior to submitting the same to the Town's Board of Selectmen for approval as Town Meeting Warrant Articles, and these draft ordinances and ordinance amendments have to be approved by the Town's legislative body at a duly called Town Meeting; and

WHEREAS, the Town, under its home rule authority, its police power generally, and under 30-A M.R.S. Chapter 187, Subchapter 3, ("Land Use Regulation"), as provided by the Act and LD 1719, LD 1539, and LD 238 or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on Adult Use and Medical marijuana businesses; and

WHEREAS, with the professional advice and assistance of its Police Department and the Maine State Police, the Town, by and through its Selectmen, Planning Board, Zoning Board, and Code Enforcement Office, are studying the Town's current Comprehensive Plan and ordinances, and the body of laws, rules, and regulations adopted by the State to determine the land use and other regulatory implications of Adult Use and Medical marijuana businesses, and other uses authorized by the changes in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, and considering what locations, if any, and conditions of approval, if any, might be appropriate for such uses; 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 Adult Use and Medical marijuana businesses and other uses authorized by the proposed changes in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, thereby necessitating a moratorium ordinance extension; and

WHEREAS, a moratorium ordinance extension is necessary to allow the Town to analyze and plan properly for any future Adult Use and Medical marijuana businesses and other uses authorized by the changes in law and to prevent an overburdening of public facilities that is reasonably foreseeable as the result of Adult Use and Medical marijuana businesses and other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238 being located in the Town; and

WHEREAS, while it was originally anticipated that the study, review, and development of recommended ordinance, ordinance amendments and/or additions would require one hundred and eighty (180) days, it is now evident that the study, review, and development of recommended ordinance, ordinance amendments and/or additions will take an additional one hundred and eighty (180) days from the date of expiration of the Town's Moratorium Ordinance initially enacted on March 26, 2018, and

WHEREAS, the Town's Board of Selectmen made the statutorily required findings about the need to extend the moratorium under 30-A M.R.S. § 4356(2) on September 25, 2018; and

WHEREAS, the problems giving rise to the need for the moratorium still exist and reasonable progress is being made to alleviate the problems;

NOW THEREFORE, be it ordained by the Town, that the Moratorium Ordinance on Adult Use and Medical Marijuana Businesses, originally enacted on March 26, 2018, be, and hereby is extended for an additional one hundred and eighty (180) days from September 26, 2018 to March 25, 2019, and in furtherance thereof, the Town does hereby declare and extend its Moratorium on the location, operation or licensing of any Adult use or Medical marijuana businesses and other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, including Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical 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 existing medical marijuana cultivation facilities or dispensaries, as may be permitted or allowed by any Town ordinance or State law, within Town. This Ordinance does not impose a moratorium on the continued cultivation and provision of medical marijuana by licensed caregivers who have been doing so on or before November 15, 2016 and in compliance with State Law existing prior to November 15, 2016.

The one hundred and eighty (180) day extension of the Town's existing Moratorium Ordinance shall take effect when same is approved by the Town's Board of Selectmen. The Moratorium Ordinance extension shall remain in effect for one hundred and eighty days (180) days from the date same is approved by the Town's Board of Selectmen, unless repealed, or modified by the Town or its Selectmen, as provided by law, for the express purpose of completing and finalizing drafts of the Town's opt-in ordinances and ordinance modifications to protect the public from health and safety risks including, but not limited to, the possible incompatibility of Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities with existing and permitted land uses in the Town; the distribution and zoning of Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities; the potential adverse health and safety effects of Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities 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; and 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 Adult Use and Medical marijuana businesses.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to Adult Use and Medical Marijuana Stores, Adult Use and Medical Marijuana Cultivation Facilities, Adult Use and Medical Marijuana Manufacturing Facilities, and Adult Use and Medical Marijuana Testing Facilities, as those terms are defined in LD 1719, LD 1539, and LD 238, and other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, that may be proposed to be located within the Town on or after the applicability date of this Moratorium Ordinance extension; and

BE IT FURTHER ORDAINED, the Town Planning Board and Zoning Board will continue to study Adult Use and Medical marijuana businesses and their effects on public health, safety, and welfare, the laws and experience of other jurisdictions, and LD 1719, LD 1539, and LD 238, and will continue to 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 and Zoning Board will continue to consider and recommend zoning districts of the Town in which Adult Use and Medical marijuana businesses may most appropriately be allowed and excluded. The Planning and Zoning Boards will conduct public hearings in the course of their work and will make findings and recommendations to the Board of Selectmen, who will then develop and post a warrant for Town Meeting to consideration of ordinance enactment, ordinance modification and/or other legislative action.

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S. §302 or any other law to the contrary, this Moratorium Ordinance extension, when approved by the Board of Selectmen, shall govern any proposed Adult Use or Medical marijuana business 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 Moratorium Ordinance extension; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate an Adult Use or Medical marijuana business or any other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238 within the Town on or after the applicability date of this Moratorium Ordinance extension without complying with whatever ordinance amendment or amendments the Town may enact as a result of this Moratorium Ordinance extension; and

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

BE IT FURTHER ORDAINED, that no person or organization shall develop or establish a business that engages in the retail or wholesale of products or merchandise for which a substantial portion of its business is to prepare, cultivate, distribute or ingest marijuana for non-medical retail or wholesale sales of such products. This Moratorium Ordinance extension does not impose a moratorium on the continued operation of a business established in the Town on or before November 15, 2016 that has been engaged in the sale or production of merchandise of the kind that is commonly offered for sale at so-called head shops, including, but without limitation, water pipes, hashish pipes, glass pipes, pipe screen, bongs, vaporizers, scales, rolling papers, hydroponic equipment and grow lights and general tobacco products; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance extension 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, approval, building permit, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to an Adult Use or Medical marijuana business, or any other use authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, or a new medical marijuana cultivation facility or dispensary, or change in use of an existing medical marijuana cultivation facility or dispensary; and

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

BE IT FURTHER ORDAINED, that if Adult Use and Medical marijuana businesses or other uses authorized by said change in law approved by the November 8, 2016 referendum election and LD 1719, LD 1539, and LD 238, or new medical marijuana cultivation facilities or dispensaries, or changes in use of existing medical marijuana cultivation facilities or dispensaries are established in violation of this Moratorium Ordinance extension, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance extension, 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. §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 Ordinance extension shall be construed liberally to address the findings and to accomplish the policies established herein, and should any section or provision of this Moratorium Ordinance extension 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 _____, 2018, this Moratorium Ordinance extension was posted for a hearing by the Board of Selectmen to be held at their regularly scheduled meeting on September 25, 2018.