

**TOWN OF WINDHAM, MAINE**  
**MORATORIUM ORDINANCE**  
**REGARDING MARIJUANA CULTIVATION FACILITIES**

**WHEREAS**, the Town has adopted local regulations governing the definition and zoning of retail (“adult use”) marijuana establishments;

**WHEREAS**, the Town is in the process of adopting local regulations governing the definition, Zoning and licensure of all Marijuana Businesses, including Adult Use Marijuana Stores, Medical Marijuana Caregiver Retail Stores, Medical Marijuana Caregivers, Medical Marijuana Caregivers (home occupation), Marijuana Cultivation Facilities, Marijuana Manufacturing Facilities and Marijuana Testing Facilities;

**WHEREAS**, state law prohibits the location of all of the above Marijuana Businesses, except Medical Marijuana Caregivers and Marijuana Cultivation Facilities, until the municipality has voted to allow such Marijuana Businesses;

**WHEREAS**, the zoning and licensing regulations under consideration would regulate the location and operation of Marijuana Cultivation Facilities; and

**WHEREAS**, the purpose and goals of the regulations under consideration would be harmed by allowing for unfettered location and operation of Marijuana Cultivation Facilities until such regulations can take effect; and

**WHEREAS**, it is anticipated that the Town Council will enact amendments to the Land Use Ordinance and a new Marijuana Business Licensing Ordinance within thirty (30) days of the enactment of this Moratorium, with such Ordinances to take effect thirty (30) days thereafter;

**NOW, THEREFORE**, be it ordained by the Town Council of the Town of Windham, that the following Moratorium Ordinance regarding Marijuana Cultivation Facilities (the “Moratorium Ordinance”) be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location, operation or licensing of any marijuana cultivation facilities within the Town.

For the purposes of this Moratorium Ordinance, a Marijuana Cultivation Facility is defined as “A facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to cultivate medical marijuana that exceeds 1,000 square feet floor area; to sell marijuana to products manufacturing facilities, stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

This Moratorium Ordinance shall take effect once enacted by the Town Council, in accordance with the provisions of the Town Charter and, notwithstanding 1 M.R.S.A. § 302, shall be applicable to Marijuana Cultivation Facilities for which applications are not approved as of

February 4, the date upon which this Moratorium was enacted. The Moratorium shall expire on the 60<sup>th</sup> day after enactment, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of Marijuana Cultivation Facilities with existing and permitted uses in residential, commercial and industrial zoning districts, the potential adverse health and safety effects of Marijuana Cultivation Facilities on the community if not properly regulated, and the adequacy of the Town's infrastructure to accommodate the presence of Marijuana Cultivation Facilities in the Town.

**BE IT FURTHER ORDAINED**, that this Moratorium Ordinance shall apply to Marijuana Cultivation Facilities that may be located or proposed to be located within the Town after the effective date of this Ordinance; and

**BE IT FURTHER ORDAINED**, that no person or organization shall develop or operate a Marijuana Cultivation Facility within the Town on or after the effective date of this Moratorium Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; 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, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a Marijuana Cultivation Facility unless the application under review was filed with the Town prior to the enactment date of this Ordinance; and

**BE IT FURTHER ORDAINED**, that those provisions of the Town's current Code of 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 Marijuana Cultivation Facilities are established in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance, and the Town shall be entitled to all rights available to it in law and equity, 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 should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

## **Emergency Declaration**

The Town Council declares the existence of an emergency because the Code of Ordinances is insufficient to prevent serious environmental and public harm that could be caused by the location of new or expanded Marijuana Cultivation Facilities within the Town, thereby necessitating a moratorium to provide an opportunity for the Town to review and amend its Ordinances to mitigate the potential impact and harm of such uses.

In accordance with Article II, Section 11(D) of the Town Charter, this Moratorium shall be enacted as an emergency ordinance. It shall stand repealed as of the sixty-first (61<sup>st</sup>) day following enactment, unless the Town Council shall have acted to reenact it.

Enactment Date:\_\_\_\_\_.