

ORDINANCE 2018-02

MUNICIPALITY OF WINTHROP MORATORIUM ORDINANCE REGARDING REGISTERED CAREGIVER RETAIL STORES, DISPENSARIES, TESTING FACILITIES, AND MANUFACTURING FACILITIES

WHEREAS, the legislative body of the Municipality of Winthrop (the “Municipality”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act, codified in 22 M.R.S. Ch. 558-C, authorizes the use, possession, cultivation and transfer of marijuana for medical purposes, and authorizes qualifying patients to obtain medical marijuana from other qualifying patients, registered caregivers, or registered dispensaries, as those terms are defined by 22 M.R.S. § 2422; and
- (2) 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
- (3) 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
- (4) The unregulated location and operation of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the Municipality raises legitimate and substantial questions about the impact of such activity on the Municipality, including questions as to compatibility with existing land uses and developments in the Municipality; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (5) As a result of the foregoing issues, the location and operation of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the Municipality have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (6) The Municipality currently has no regulations governing registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities; and

- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities in the Municipality; and
- (8) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the Municipality as follows:

Section 1. Moratorium. The Municipality does hereby declare a moratorium on the location, operation, permitting, approval, or licensing of any and all new registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the municipality.

No person or organization shall develop or begin operation of a registered caregiver retail store, registered dispensary, testing facility, or manufacturing facility within the Municipality on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a registered caregiver retail store, registered dispensary, testing facility, or manufacturing facility.

Section 2. Definitions. For purposes of this ordinance, the following terms have the following meanings.

Marijuana means the leaves, stems, flowers, seeds and other plant material harvested from a plant of the genus *Cannabis*, including, but not limited to, *Cannabis sativa*, *Cannabis indica*, and *Cannabis ruderalis* or their hybrids or seeds of those plants. "Marijuana" includes any product derived from any marijuana plant or plant material, including, but not limited to marijuana concentrate and marijuana products.

Registered Caregiver Retail Store means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, that is used by a registered caregiver to offer marijuana for sale to qualifying patients.

Registered dispensary means an entity registered under the Maine Medical Use of Marijuana act that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Testing facility means a public or private laboratory that is authorized under the Maine Medical Use of Marijuana Act to analyze contaminants in and the potency and cannabinoid profile of marijuana samples.

Manufacturing facility means a facility or person engaged in the production, blending, infusing, compounding, or other preparation of marijuana, marijuana concentrate, or marijuana product for medical use, including, but not limited to, extraction or preparation by means of chemical synthesis.

Section 3. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any proposed registered caregiver retail store, registered dispensary, testing facility, and manufacturing facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 4. Conflicts/Savings Clause. Any provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any registered caregiver retail store, registered dispensary, testing facility, or manufacturing facility is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

First Reading: November 5, 2018

Second Reading: Waived on November 5, 2018

By Order of the Town Council Ordinance effective immediately – November 5, 2018

This moratorium Ordinance must be reviewed prior to May 4, 2019