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## **MORATORIUM ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the “Marijuana Legalization Act,” has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417 (hereinafter, “Act”); and 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 Act, as well as providing 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 their jurisdiction; and

WHEREAS, the 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 associated with any of those classifications; and

WHEREAS, the Act provided a 9 month period for State Regulators to adopt their rules, establishing an effective adoption deadline around 1 November 2017; and

WHEREAS, South Thomaston’s current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs within the Town of South Thomaston raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana 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 Act; and potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana

products for non-medicinal purposes; and

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

WHEREAS, the Town of South Thomaston needs time to review the Act and the regulations promulgated thereunder, to review its own ordinances to determine the implications of future proposed retail marijuana establishments, retail marijuana stores and retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments, stores and social clubs to address the concerns cited above; and

WHEREAS, the Board of Selectmen and the Planning Board, with professional legal advice and assistance, shall study the Town's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, it is anticipated that such study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on retail marijuana establishments, retail marijuana stores and retail marijuana social Clubs;

NOW, THEREFORE, be it ordained by the legislative body of the Town of South Thomaston, that the following Moratorium Ordinance on retail marijuana establishments, retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the legislative body 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.

This Moratorium Ordinance shall take effect once enacted by the legislative body, but shall be applicable as of March 28, 2017 as expressly provided below. The moratorium shall remain in effect for one hundred eighty (180) days from the date of applicability unless repealed or modified by the legislative body, for the express purpose of drafting or amending the Town's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana 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 infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Town.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and 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 by the Act, codified at 7 M.R.S.A. §§ 2442 , that may be proposed to be located within the Municipality on or after the March 28 2017 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail marijuana establishments, retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or Board of Selectman 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 retail marijuana store or retail marijuana social club within the Municipality on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body 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 Municipality 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 retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of the Town of South Thomaston's 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 or retail marijuana stores or retail marijuana social clubs 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, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations;

**BE IT FURTHER ORDAINED, that pursuant to 30-A M.R.S.A. § 4356, the Board of Selectmen may extend this Ordinance for additional 180-day periods, after notice and hearing, if it finds that the necessity cited herein remains; and**

BE IT FURTHER ORDAINED, that 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.

South Thomaston Select Board

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Jan Gaudio, Chair

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Cheryl Waterman

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Walter Reitz