

TOWN OF MOUNT DESERT
SPECIAL OPEN FLOOR TOWN MEETING WARRANT - **DRAFT**
February 26, 2018

Hancock County §

State of Maine

To: James K. Willis, Jr., a Constable in the Town of Mount Desert

Greeting:

In the name of the State of Maine, you are hereby required to notify and warn the Inhabitants of the Town of Mount Desert, qualified by law to vote in Town affairs, to assemble in the **Kelley Auditorium of the Mount Desert Elementary School, 8 Joy Road, Northeast Harbor, Maine** in said Town, on **February 26, 2018** at **six o'clock** in the evening, then and there to act on Article 1; and immediately thereafter to act on Articles numbered 1 through 4; all of said Articles being set out below to wit:

Article 1. To elect a Moderator, by written ballot, to preside at the meeting.

Article 2. To see if non-voters shall be allowed, when recognized, to speak during the February 26, 2018 Special Town Meeting.

Board of Selectmen recommends
Warrant Committee recommends

Ordinances

Article 3. Shall an ordinance dated February 26, 2018 and entitled **TOWN OF MOUNT DESERT, MAINE MORATORIUM ORDINANCE REGARDING RETAIL RECREATIONAL MARIJUANA** be enacted as set forth below?

WHEREAS, the legislative body of the Town of Mount Desert (the "Town") makes the following findings:

- (1) The Marijuana Legalization Act (the "Act") was approved by Maine voters in November 2016 and has been codified in the Maine Revised Statutes in Title 7, chapter 417; and
- (2) The unregulated location and operation of "Retail Marijuana Establishments" and "Retail Marijuana Social Clubs," as defined in 7 M.R.S.A. chapter 417, as

well as other types of retail recreational marijuana activity within the Town raises legitimate and substantial questions about the impact of such activity, establishments, and social clubs on the Town, including questions as to compatibility with existing land uses and developments in the municipality; risks of overburdening public facilities and resources, including public safety resources; potential adverse health and safety effects on the community; the possibility of illicit sale and use of marijuana and marijuana products to and by minors; and the possibility of unlawful use of marijuana and marijuana products; and

- (3) As a result of the foregoing issues, retail recreational marijuana activity, and the location and operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs within the Town have potentially serious implications for the health, safety, and welfare of the Town and its residents; and
- (4) The Town currently has no regulations governing retail recreational marijuana activities, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of Retail Marijuana Establishments and Retail Marijuana Social Clubs and from other types of retail recreational marijuana activity; and
- (5) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of Retail Marijuana Establishments and Retail Marijuana Social Clubs locating in the Town and/or other types of retail recreational marijuana activity in the Town; and
- (6) The state's regulatory structure is unknown at this time as the Maine Legislature and state agencies have not developed final legislation or regulations governing Retail Marijuana Establishments and Retail Marijuana Social Clubs, and legislation amending the Act is pending; and
- (7) In the judgment of the legislative body of the Town, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to Article VIII, Part 2, Section 1 of the Maine Constitution, 30-A MRSA § 3001, and 30-A MRSA § 4356, be it ordained by the Town as follows:

Section 1. Moratorium. The Town does hereby declare a moratorium on all retail recreational marijuana activity, and the location, operation, or licensing of any and all "Retail Marijuana Social Clubs" and "Retail Marijuana Establishments," as defined in 7 M.R.S.A. chapter 417, including but not limited

to, retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities within the municipality.

No person or organization shall engage in any retail recreational marijuana activity or develop or operate a Retail Marijuana Establishment or Retail Marijuana Social Club within the Town on or after the effective date of this Ordinance. 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, any other type of land use approval or permit and/or any other permits or licenses related to a Retail Marijuana Establishment, Retail Marijuana Social Club, or retail recreational marijuana activities.

Section 2. Pending Proceedings. Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan, or any other required approval has been submitted to the Town, whether or not a pending proceeding, prior to the enactment of this Ordinance. Specifically, the Ordinance applies to any application submitted to the Town on or after February 1, 2018, as well as to any pending application on or after February 1, 2018, for a building permit, certificate of occupancy, site plan, or any other required approval for any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs.

Section 3. Medical Marijuana Act. This Ordinance 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.

Section 4. Conflicts/Savings Clause. Any provisions of the Town'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 retail recreational marijuana activity is conducted, or Retail Marijuana Establishment or Retail Marijuana Social Club is 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 pursuant to 30-A M.R.S.A. § 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 Town, whichever shall first occur. As detailed in Section 2, once effective this Ordinance applies to any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan, or any other required approval has been submitted to the Town, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Board of Selectmen recommends
Warrant Committee recommends

End of Warrant Articles

The Registrar of Voters of the Town of Mount Desert hereby gives notice that she or her designee will be at the Municipal Offices, Monday through Friday from 8:30 a.m. to 4:30 p.m., except holidays, until Election Day for the purpose of registering new voters, and correcting names and addresses of voters already on the voting list. A person who is not registered as a voter may not vote in any election.

Given under our hands at Mount Desert this 16th day of January 2018, a majority of the Selectmen of the Town of Mount Desert:

John B. Macauley, Chairman

Matthew Hart, Vice Chairman

Wendy Littlefield, Secretary

Martha T. Dudman

James F. Mooers

Attest: A true copy of the Warrant.

Claire Woolfolk, Town Clerk
Town of Mount Desert

DRAFT

RETURN

Hancock County, §

State of Maine

TO: The Municipal Officers of the Town of Mount Desert

I certify that I have notified the voters of the Town of Mount Desert of the time and place of the Special Town Meeting by posting an attested copy of the within warrant as follows:

<u>DATE</u>	<u>TIME</u>	<u>LOCATION OF POSTING</u>
_____	_____	<u>Town Office, Northeast Harbor</u>
_____	_____	<u>Post Office, Northeast Harbor</u>
_____	_____	<u>Post Office, Seal Harbor</u>
_____	_____	<u>Post Office, Mount Desert</u>

being public and conspicuous places in said Town and being at least ten (10) days next prior to the date of the Special Town Meeting.

Attest:

James K. Willis, Jr. Constable
Town of Mount Desert

Dated at Town of Mount Desert: _____