

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JULY 18, 2018
REGULAR MEETING – 5:30 P.M.

- Item 1.** Call to Order.
- Item 2.** Pledge of Allegiance.
- Item 3.** Roll Call.
- Item 4.** General Public Comments.*
- Item 5.** Minutes: June 20, 2018 - Regular Town Council Meeting.
June 27, 2018 – Special Town Council Meeting
- Item 6.** Adjustment to the Agenda.
- Item 7.** Items to be signed: a. Treasurer’s Warrants.

***Procedure for Addressing Council** [Posted in Chambers.]

Order No. 18-050. Act to adopt the FY2019 School Budget Resolutions, as required by State Statute. [*School Department*]

Order No. 18-051. First and second readings and action on the request for a 90-day emergency moratorium on Medical Marijuana Establishments [*Town Manager*]

- Item 8.** Non Action Items.
- Item 9.** Standing and Special Committee Reports and Liaison Reports.
- Item 10.** Town Manager Report.
- Item 11.** Council Member Comments.
- Item 12.** Adjournment.

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SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JULY 18, 2018
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Order No. 18-050. Move approval to adopt the FY2019 School Budget Resolutions, as required by State Statute, as follows: *[School Department]*

School Department

Ought to Pass

Sponsor

Recommendation

07/18/18

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

2018-2019 School Budget Resolution to comply with State statutory reporting requirements:

**Scarborough School Department
2018-2019 Budget Resolutions**

ARTICLE I. To see what sum the municipality will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act.

Recommend \$ 33,222,383

and to see what sum the municipality will raise as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

Recommend \$ 30,518,440

Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars.

ARTICLE II. To see what sum the municipality will raise and appropriate for the annual payments on debt service previously approved by the municipality for non-state-funded school construction projects, or non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12.

Recommend \$5,691,072

Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the municipality/district long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters.

ARTICLE III. To see what sum the municipality will raise and to appropriate that sum in additional local funds for school purposes under Maine Revised Statutes, Title 20-A, 15690.

Recommend \$8,496,088

Explanation: The additional local funds are those locally raised funds over and above the school administrative unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the municipality budget for educational programs.

ARTICLE IV. To see what sum the municipality will authorize the School Board to expend for the fiscal year beginning July 1, 2018 and ending June 30, 2019 from the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

Recommend \$48,526,504

Pursuant to Maine Revised Statutes, Title 20-A, section 1485, voters and the Town Council authorize the School Board to expend the above funds in the following State-mandated categories:

ARTICLE IV-A. To see what sum the school administrative unit will be authorized to expend for Regular Instruction.

Recommend \$20,152,005

ARTICLE IV-B. To see what sum the school administrative unit will be authorized to expend for Special Education.

Recommend \$8,324,229

ARTICLE IV-C. To see what sum the school administrative unit will be authorized to expend for Career and Technical Education.

Recommend \$9,000

ARTICLE IV-D. To see what sum the school administrative unit will be authorized to expend for Other Instruction.

Recommend \$1,283,875

ARTICLE IV-E. To see what sum the school administrative unit will be authorized to expend for Student and Staff Support.

Recommend \$4,809,568

ARTICLE IV-F. To see what sum the school administrative unit will be authorized to expend for System Administration.

Recommend \$1,074,587

ARTICLE IV-G. To see what sum the school administrative unit will be authorized to expend for School Administration.

Recommend \$1,831,630

ARTICLE IV-H. To see what sum the school administrative unit will be authorized to expend for Transportation and Buses.

Recommend \$1,427,492

ARTICLE IV-I. To see what sum the school administrative unit will be authorized to expend for Facilities Maintenance.

Recommend \$3,923,046

ARTICLE IV-J. To see what sum the school administrative unit will be authorized to expend for Debt Service and Other Commitments.

Recommend \$5,691,072

ARTICLE IV-K. To see what sum the school administrative unit will be authorized to expend for All Other Expenditures.

Recommend \$0

ARTICLE V. To see if the municipality will appropriate **\$188,501** for Adult Education and raise **\$98,237** as the local share; with authorization to expend any additional, incidental or miscellaneous receipts in the interest and for the well-being of the Adult Education program.

Recommend \$98,237 (Local)

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JULY 18, 2018
REGULAR MEETING – 5:30 P.M.**

Order No. 18-051. Move approval of the first reading and waive the second reading on the request for a 90-day emergency moratorium on Medical Marijuana Establishments; as follows: *[Town Manager]*

Town Manger

Ought to Pass

Sponsor

Recommendation

07/18/18

First Reading/Vote

N/A

Public Hearing

07/18/18

Second Reading/Final Approval/Vote

Memorandum

To: Town Council members

From: Larissa Crockett, Assistant Town Manager

Re: Proposed moratorium on registered caregiver retail stores

On Monday July 9, 2018 the Maine State Legislature voted to override Gov. LePage's veto of two bills regulating medical marijuana and medical marijuana caregivers (MMCs). We have been advised by Attorney Saucier that read together they create a potential loophole, and incentive, for MMCs to readily open retail stores for the next 90 days.

LD 238, which takes immediate affect, allows MMC's to operate retail stores separate from their grow facilities by simply obtaining a permit from our zoning office to do so. The only limitations on doing so is that the zoning district permit the retail sale of goods and does not exclude the sale medical of marijuana. Scarborough districts governing retail sales do not exclude medical marijuana. Anyone applying for a permit for the retail sale of medical marijuana would therefore be entitled to receive a permit. That right will be extinguished when LD 1539 takes effect but that will not occur for 90 days.

As our attorney Phil Saucier said, "I don't wish to be alarmist, but we should expect a possible flood of new applicants". While we have not yet experienced a flood, we have had several current growers express interest in retail store fronts both at their current grow locations and in other areas of town zoned for retail. The attached proposed moratorium would avoid the risks described above and allow for a thoughtful discourse about this topic. By law the moratorium passed by Council last year is no longer applicable nor does it address medical marijuana. If passed, the proposed moratorium would in no way impact the growers currently operating within Scarborough.

**TOWN OF SCARBOROUGH
ORDINANCE ESTABLISHING A MORATORIUM ON
REGISTERED CAREGIVER RETAIL STORES**

WHEREAS, the Maine Medical Use of Marijuana Act, codified at 22 M.R.S.A. Chapter 558-C, authorized primary caregivers to possess and cultivate marijuana for qualifying patients and to receive monetary compensation for costs associated with assisting qualifying patients; and

WHEREAS, the Legislature enacted the Act to Amend Maine’s Medical Marijuana Law (the “Act”) on July 9, 2018; and

WHEREAS, the Act specifically gives municipalities the authority to regulate registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities; and

WHEREAS, the Act authorizes caregivers to operate one retail store to sell harvested marijuana to qualifying patients for the patients' medical use; and

WHEREAS, the Act prohibits municipalities from authorizing new registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities after the effective date of the Act unless the legislative body has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities; and

WHEREAS, the Act specifically authorizes the continued operation of registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval prior to effective date of the Act; and

WHEREAS, the Act will become effective 90 days after the close of the Legislature’s special session; and

WHEREAS, registered caregiver retail stores raise a number of concerns related to public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, security of the facilities, and odors that may create a public nuisance or hazard; and

WHEREAS, there has been an increasing number of requests regarding the establishment of registered caregiver retail stores; and

WHEREAS, the Town's existing ordinances do not provide an adequate mechanism to regulate and control the location and operation of registered caregiver retail stores and are inadequate to prevent serious public harm that could be caused by the unregulated development of registered caregiver retail stores; and

WHEREAS, the Town needs a reasonable amount of time to determine the implications of registered caregiver retail stores and to develop reasonable regulations governing their location and operation; and

WHEREAS, during the period of this Moratorium, the Town will work on developing appropriate land use regulations concerning registered caregiver retail stores;

WHEREAS, for the above stated reasons the Town Council finds there to be an emergency pursuant to Section 213 of the Charter requiring immediate enactment of a moratorium;

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S.A. § 4356, be it hereby ordained by the legislative body of the Town of Scarborough as follows:

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings as defined in the Marijuana Legalization Act:

“Marijuana”: means cannabis.

“Registered Caregiver Retail Store”: a facility or location in which a registered medical marijuana caregiver sell harvested marijuana to qualifying patients for the patients' medical use through a storefront.

2. APPLICABILITY AND PURPOSE.

This moratorium shall apply to retail registered caregiver retail stores, as defined above, that are proposed to be located within the Town of Scarborough on or after the effective date of this Ordinance.

Notwithstanding anything to the contrary in 1 M.R.S.A. § 302 or any other law, this Ordinance applies to any application relating to the establishment or operation of a proposed registered caregiver retail store, whether or not such application had become a “pending proceeding” as defined in 1 M.R.S.A. § 302 prior

to the enactment of this Ordinance. Properties that are currently permitted as general retail operations shall not be permitted to operate as a registered caregiver retail store and shall only be permitted by the Town in accordance with future land use regulations concerning registered caregiver retail stores.

3. PROHIBITION.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Scarborough shall accept, process or act upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, or any other approval relating to the establishment or operation of a business or operation of a registered caregiver retail store. No person shall establish or operate a business or operation of a registered caregiver retail store within the Town of Scarborough without complying with whatever ordinance amendments the Town may enact as a result of this Ordinance. This prohibition does not apply to activities of registered medical marijuana caregivers that occur within a caregiver's residence or the residence of a qualifying patient.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Scarborough. Any person who violates Section 3 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless earlier extended by the Town Council.

6. SEVERABILITY.

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.