

## MORATORIUM ORDINANCE ON RETAIL CHAIN BOX STORES

WHEREAS, areas in the Town of Athens are suddenly under the threat of increased development pressure from retail chain box stores; and

WHEREAS, the ordinances of the Town of Athens do not include any regulations related to retail chain box stores;

WHEREAS, the unregulated location and operation of retail chain box stores within the Town of Athens raises legitimate and substantial concerns about health, safety, visual and environmental impacts of such uses, as well as risk of overburdening of public facilities, impact on property values, and other considerations related to appropriate siting of retail chain box stores;

WHEREAS, residents of the Town of Athens have expressed concerns about proposals for such developments, including concerns regarding quality of life, adjacent property values, environmental impacts, health and safety concerns, visual impacts, noise, negative impacts on residential neighborhoods, light pollution, damage to drinking water supplies, overburdening of public facilities, loss of wildlife habitat, increased storm water and road flooding, traffic dangers, and pedestrian safety;

WHEREAS, there is a likelihood that other areas of town could be subjected to this development due to the amount of undeveloped land, relatively low land prices, access to major transportation and electricity corridors, and a push by national chains to expand developments into rural and low-income areas;

WHEREAS, continued development of retail chain box stores could pose serious threats to the public health, safety and welfare of the residents of Athens through over-development in parts of the town without adequate provisions for issues of land use compatibility, traffic safety, pedestrian safety, light pollution, aesthetics, other visual impacts, public safety, protection of drinking water, and storm water management;

WHEREAS, existing zoning and regulations do not adequately provide for mitigation for issues of land use compatibility, traffic safety, pedestrian safety, light pollution, aesthetics, other visual impacts, noise, public safety, protection of drinking water, and storm water management;

WHEREAS, the Town's current ordinances are insufficient to prevent serious public harm that could be caused by unregulated development of retail chain box stores;

WHEREAS, the town needs at least 180 days to study the land use implications of these pressures and develop and implement appropriate regulations for development of retail chain box stores;

WHEREAS, in the judgement of the town, these facts establish that a Moratorium Ordinance in accordance with 30-A M.R.S.A.4536(1) is immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, be it ordained by the voters of the Town of Athens, that the following Moratorium Ordinance on Retail Chain Box Stores be, and hereby is, enacted and, in furtherance thereof, the town meeting does hereby declare a moratorium on the location, development, operation or licensing of retail chain box stores within the Town.

For the purposes of this Moratorium, “retail chain box stores” are defined as any retail outlets in which several locations share a brand, ownership or central management, and standardized business practices, with a building size of greater than 1,000 square feet, and a parking lot with more than 5 parking spaces. The definition of “Retail chain box stores” includes, but is not limited to, any installation of fixtures, culverts, or lighting, and any paving or other land modifications intended for use in development of a retail chain box store.

Existing retail stores that received approval from the Town of Athens to operate prior to the effective date of this Moratorium ordinance are exempt from provisions of this ordinance.

If enacted, the provisions of this Moratorium ordinance shall be applicable to all pending proceedings, applications and petitions commenced after November 2, 2023, which is the date of filing this initiative in the Town Clerk's office of the Town of Athens. This Moratorium Ordinance shall remain in effect for a period of one hundred eighty (180) days after said date unless extended, repealed, or modified by the municipal officials of the Town of Athens, or until a new and revised set of regulations is adopted by the Town of Athens, whichever shall first occur.

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply retail chain box stores that are proposed to be located within the Town on or after the effective 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 Moratorium Ordinance, when enacted, shall govern any proposed retail chain box stores for which an application for a building permit, certificate of occupancy, electrical permit, shoreland zoning approval, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Selectboard, or other Town officials prior to the effective date of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a new retail chain box store within the Town on or after the effective date of this Moratorium Ordinance without complying with whatever ordinance amendment or amendments the town meeting 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, 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 retail chain box stores; and

BE IT FURTHER ORDAINED, that if a retail chain box store is established in contravention of this Moratorium, 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. Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S.A. 4452; 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.