

# Town of Poland Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs

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WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act” was passed in a State-wide referendum election on November 8, 2016 and codified in the Maine Revised Statutes in Chapter 417 of Title 7 (the “Act”); and

WHEREAS, the Maine Legislature amended the Act to delay its effective date to February 1, 2018 in order to allow rulemaking to occur to regulate and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the Act; and

WHEREAS, the State of Maine has not yet enacted rules and the Legislature is considering additional amendments to the Act that may impact local regulation of retail marijuana establishments and retail marijuana social clubs; and

WHEREAS, the Act 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 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 its jurisdiction; and

WHEREAS, the Town, under its home rule authority, its police power generally, and under 30-A M.R.S.A., chapter 187, subchapter 3 (“land use regulation”), as provided by the Act, or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on such retail marijuana establishments and social clubs; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of raises legitimate and substantial questions about the impact of such retail establishments and social clubs on the Town, including questions of the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the possible connection of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; the potential adverse health and safety effects of retail marijuana establishments and 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; potential 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 streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the Town’s current ordinances, including but not limited to the Comprehensive Land Use Code, and other applicable local laws are not adequate to prevent serious public harm that could be caused by the unregulated development and operation of retail marijuana establishments and social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the Town needs time to review the Act, as may be further amended, and to review its own Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operation of such retail establishments and social clubs to address the concerns cited above; and

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

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by the Act being located in the Town; and

NOW, THEREFORE, the Town of Poland hereby enacts this Moratorium Ordinance On Retail Marijuana Establishments and Retail Marijuana Social Clubs, and Retail Marijuana Social Clubs and, in furtherance thereof, the Town 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.

## **Section 1. Title**

This ordinance shall be known as the Town of Poland Retail Marijuana Moratorium Ordinance.

## **Section 2. Declaration of 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. § 2442, including but not limited to, retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities within the Town, whether as a principal or an accessory use, but not including personal use or home cultivation as authorized by 7 M.R.S.A. § 2452. 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 and applicability dates of this Ordinance.

## **Section 3. Administration**

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 4. Governance**

This Ordinance will not affect or 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 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.

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## **Section 6. Enforcement**

This Ordinance may be enforced by any duly authorized law enforcement officer, as well as other individuals specifically designated by the Board of Selectpersons.

## **Section 7. Severability**

Should any portions of this Ordinance be declared invalid by court, the remaining portions of this Ordinance shall remain in full force and effect. This ordinance may be repealed at any Town Meeting by majority vote.

## **Section 8. Effective Date; duration.**

This Ordinance shall take effect upon adoption by the Town of Poland at a Town Meeting. This Ordinance shall remain in effect for 180 days from the effective date, unless earlier repealed by Town Meeting vote or extended by vote of the Board of Selectpersons.

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