



TOWN OF FALMOUTH

ORDINANCE NO 74-2018

An Ordinance Amending the Code of Ordinances Regarding a Moratorium on Retail Recreational Marijuana

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that the Falmouth Code of Ordinances be amended to read as follows:

ART. II-8-16 MORATORIUM REGARDING RETAIL RECREATIONAL MARIJUANA

Sec. 8-400. Findings

WHEREAS, the Town Council of the Town of Falmouth, Maine (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 chapter 417 of Title 7 of the Maine Revised Statutes, 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 development in the Town; 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 activity, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated Retail

Marijuana Establishments, Retail Marijuana Social Clubs and 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 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. The Town needs a reasonable period of time to prepare and adopt amendments to the Falmouth Zoning and Site Plan Review Ordinance and other ordinances and regulations of the Town to prevent serious public harm from unregulated Retail Marijuana Establishments and Retail Marijuana Social Clubs and other types of retail recreational marijuana activity and to address the reasonably foreseeable impacts of such proposed or anticipated development and activity on public facilities; and
8. Pursuant to 30-A M.R.S. § 4356, the Town may adopt a moratorium ordinance on Retail Marijuana Establishments, Retail Marijuana Social Clubs and other types of retail recreational marijuana activity.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Falmouth, Maine, in Town Council assembled, as follows:

Sec. 8-401. 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., 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 Town.

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 geographic boundaries Town for the duration of this moratorium. No officer, official, board, agency, or employee of the Town shall accept, process, issue, approve, deny, or in any other way act upon any application for a license, permit, or any other type of land use approval related to a Retail Marijuana Establishment, Retail Marijuana Social Club, or retail recreational marijuana activity for the duration of this moratorium.

Sec. 8-402. Date of Applicability

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this moratorium shall govern and apply to all proceedings, applications, and proposals related to a Retail Marijuana Establishment, Retail Marijuana Social Club, or retail recreational marijuana activity that were or are pending before any officer, official, board, agency, or

employee of the Town on or at any time after **October 11, 2017** and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of any officer, official, board, agency, or employee of the Town made on or at any time after **October 11, 2017** authorizing any Retail Marijuana Establishment, Retail Marijuana Social Club, or retail recreational marijuana activity (the "Date of Applicability").

Sec 8-403. Effective Date; Duration

In accordance with Section 213 of the Town Charter, this moratorium shall take effect immediately upon its adoption (the "Effective Date") and shall remain in full force and effect for a period of 180 days from the Date of Applicability or until this moratorium is extended or repealed, whichever shall occur first.

Sec. 8-404. Medical Marijuana Act

This moratorium does not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications.

Sec. 8-405. Conflicts/Savings Clause

Any provisions of the Town’s ordinances or regulations that are inconsistent or conflicting with the provisions of this Article II-8-16 are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Article II-8-16 is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision herein.

Sec. 8-406. Violations

If any retail recreational marijuana activity is conducted, or Retail Marijuana Establishment or Retail Marijuana Social Club is established in violation of this Article II-8-16, each day of any continuing violation shall constitute a separate violation of this Article II-8-16 and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to fines and penalties, injunctive relief, and reasonable attorney fees and costs in prosecuting any such violations.

Effective on: November 27, 2017.
Date of Applicability: October 11, 2017.

Given under our hands this 27 day of November, 2017.

A Majority of the Town Council of the Town of Falmouth, Maine.

Attest: A true copy of an ordinance entitled, “Town of Falmouth, Maine, Ordinance Enacting a Moratorium Regarding Retail Recreational Marijuana,” as certified to me by the municipal officers of the Town of Falmouth, Maine, on the ____ day of _____, 2017.

Ellen Planer, Town Clerk
Town of Falmouth, Maine