



## Memorandum

Date: March 4, 2019  
To: Ad Hoc Retail Marijuana Committee  
From: Ethan Croce, Community Development Director;  
Amy Lamontagne, Assistant Town Manager  
Re: Current Issues regarding Marijuana Regulations

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### Background

In November 2016, Maine voters approved the legalization of recreational marijuana, commonly referred to as adult use marijuana. In the wake of that statewide vote many municipalities, including Falmouth, enacted moratoria prohibiting the establishment of adult use marijuana businesses. These moratoria were generally enacted to provide municipalities the time to consider whether to allow marijuana businesses to locate in their community and to determine how to appropriately regulate these businesses.

In May 2017, the Falmouth Town Council took two separate actions related to marijuana:

1. Passing a moratorium prohibiting the establishment of marijuana retail stores and marijuana social clubs; and
2. Providing for the establishment of an Ad Hoc Retail Marijuana Committee (“The Committee”) with the following charge: *“To make recommendations to the Council regarding zoning amendments, and licensing requirements as needed, related to retail (commercial) marijuana enterprises in Falmouth.”*

The Committee held regular meetings between July 17, 2017 and December 27, 2017 during which time the group visited a marijuana growth facility and had conversations with numerous stakeholders in the community. Committee meetings stopped in 2018 because of changes on the Council and due to pending marijuana legislation in Augusta. In September 2018, the Council approved a moratorium on the establishment of marijuana caregiver retail stores to address ambiguities that were identified in the statutes related to that use. The last Committee meeting was held on October 12, 2018 to discuss recent statewide changes to the marijuana laws with Representative Teresa Pierce.

### Recent Changes to Statewide Marijuana Regulations

The primary impetus for the enactment of Falmouth’s marijuana moratoria was to protect the Town against the unfettered and unregulated proliferation of retail marijuana stores and marijuana social clubs. Prior to changes made by the Legislature in Summer 2018, and in the absence of moratoria or ordinance changes, the Town would have had no control over what

types of marijuana businesses could open in Falmouth or where in town marijuana businesses could operate. The recent 2018 changes to the statewide marijuana laws have now resulted in a significant shift in the regulatory landscape around marijuana. The following two changes are particularly relevant to the work of the Committee:

1. Marijuana Social Clubs are no longer permitted anywhere in the State; and
2. Municipalities are now required to “opt-in” to allow marijuana businesses to open within their borders. This means that until and unless a municipality’s legislative body approves an ordinance expressly allowing a type of marijuana business to open the marijuana business is considered prohibited.

Since these two legislative changes have addressed the two concerns that were behind the enactment of Falmouth’s marijuana moratoria, it seems appropriate for the Committee to re-evaluate the new regulatory landscape and discuss its charge moving forward. Without limitation, some issues that may be worth discussing are the following:

1. Urgency around developing new regulations for marijuana establishments  
With the enactment of the aforementioned 2018 municipal opt-in requirement, does the Committee believe there remains any short-term urgency to adopt ordinance amendments related to marijuana establishments, or should marijuana regulation simply be one of the potential policy items taken up for consideration by the Council during its annual summer work planning session?
2. Is there still a role for the Marijuana Committee to play?  
If the Committee believes that the short-term urgency behind adopting local marijuana ordinances has gone away, should the Marijuana Committee continue to meet or should future policy discussions around marijuana regulation be treated like any other ordinance amendment and assigned to a standing council committee if deemed a priority during the Council’s annual work planning meeting?
3. Other  
Staff understand that the Marijuana Committee has recently been made aware of the state rules regulating the home cultivation of marijuana for personal use. Generally speaking, municipalities may not regulate the home cultivation of marijuana for personal adult use, however, municipalities may adopt regulations limiting the total number of mature marijuana plants that may be cultivated on any one parcel of land as long as the regulation allows for the cultivation of three mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on the parcel. Does the Committee consider this as either a threat or opportunity that requires attention in either the short-term or long-term?