

MUNICIPALITY OF NORTH BERWICK

MORATORIUM ORDINANCE REGARDING RETAIL RECREATIONAL MARIJUANA

WHEREAS, the legislative body of the Municipality of North Berwick (the “Municipality”) 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 7 M.R.S.A. chapter 417, as well as other types of retail recreational marijuana activity within the Municipality raises legitimate and substantial questions about the impact of such activity, establishments and social clubs on the Municipality, including questions as to compatibility with existing land uses and developments in the municipality; 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 Municipality, have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (4) The Municipality currently has no regulations governing retail recreational marijuana activities, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of Retail Marijuana Establishments and Retail Marijuana Social Clubs and from 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 Municipality and/or other types of retail recreational marijuana activity in the Municipality; 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) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A MRSA § 4356, be it ordained by the Municipality as follows:

Section 1. Moratorium. The Municipality 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. 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 municipality.

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 Municipality on or after the effective date of this Ordinance. During the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality 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 2. Pending Proceedings. Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 3. Medical Marijuana Act. This Ordinance will not 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 4. Conflicts/Savings Clause. Any provisions of the Municipality’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

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 Municipality 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.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.