

**TOWN OF HOWLAND**

**MORATORIUM ORDINANCE ON CERTAIN MEDICAL MARIJUANA  
ACTIVITIES**

**WHEREAS**, on July 9, 2018, the Maine Legislature enacted Public Law 2017, Chapter 452 (P.L. 2017, ch. 452) (LD 1539) “An Act to Amend the Maine Medical Marijuana Law,” which, among other things, contemplates authorization for registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities as stated in P.L. 2017, ch. 452; and

**WHEREAS**, P.L. 2017, ch. 452 states it shall not be effective until 90 days after adjournment of the Second Special Session of the 128th Maine Legislature, which has not yet adjourned but is anticipated; and

**WHEREAS**, P.L. 2017, ch. 452 states caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities operating as of the effective date of this law may not be prohibited by local regulation; and

**WHEREAS**, P.L. 2017, ch. 452 states caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities not operating as of the effective date of P.L. 2017, ch. 452 may not be authorized to operate by a municipality, unless the municipal legislative body has voted to adopt or amend an ordinance allowing caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities, as applicable, to operate within the municipality; and

**WHEREAS**, P.L. 2017, ch. 452 states, in addition to the eight (8) dispensary registration certificates issued as of April 1, 2018, the State, through the appropriate authority (the “Department”), shall issue six (6) dispensary registration certificates to applicants the Department determines to meet all criteria established in rule; and

**WHEREAS**, P.L. 2017, ch. 452 states, of the new registration certificates for dispensaries, the Department may not issue more than one additional registration certificate to any dispensary operating in the State on April 1, 2018 or to its successor in interest, and may not issue more than one dispensary registration certificate to any person that did not hold a dispensary registration certificate as of April 1, 2018; and

**WHEREAS**, P.L. 2017, ch. 452 states after January 21, 2021, the Department may not limit the number of registration certificates it issues to a person to operate as a dispensary; and

**WHEREAS**, P.L. 2017, ch. 452 expressly recognizes municipal home rule authority to regulate registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and marijuana manufacturing facilities, except that a municipality may not prohibit or limit the number of registered primary caregivers; and

**WHEREAS**, on July 9, 2018, the Maine Legislature also enacted Public Law 2017, Chapter 447 (P.L. 2017, ch. 447) (LD 238), “An Act to Amend the Maine Medical Marijuana Law,” which, among other things, also expressly recognizes municipal home rule authority to regulate registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and marijuana manufacturing facilities, except that a municipality may not prohibit or limit the number of registered primary caregivers; and

**WHEREAS**, the unregulated location and operation of registered caregiver retail stores, additional registered dispensaries through the expansion contemplated in P.L. 2017, ch. 452, marijuana testing facilities, and marijuana manufacturing facilities within the Town of Howland, all as contemplated in P.L. 2017, ch. 452 (collectively hereinafter the “Activities,” unless otherwise stated), raises legitimate and substantial questions about the impact of such activities on the Town of Howland, including but not limited to questions on compatibility with existing land uses and developments within the Town, the sufficiency of Town infrastructure to accommodate such activities, and the possible unlawful sale of harvested marijuana (including marijuana products or marijuana concentrate) or any other form of medical marijuana intended for medical use; and

**WHEREAS**, the Town of Howland currently has inadequate ordinances and regulations governing the Activities to prevent serious public harm within the Town of Howland; and

**WHEREAS**, a shortage or an overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of the Activities; and

**WHEREAS**, as a result of the foregoing, the location and operation of the Activities within the Town of Howland present potentially serious implications for the public’s health, safety, and welfare; and

**WHEREAS**, the Town needs time to review P.L. 2017, ch. 452 and P.L. 2017, ch. 447, and all other applicable Town codes and ordinances to determine the implications of the Activities to address the concerns cited above; and

**WHEREAS**, pursuant to the foregoing the Town has the authority to impose reasonable regulations on the Activities; and

**WHEREAS**, the Board of Selectmen, with the professional advice and assistance of the Howland Police Department, other law enforcement agencies, and other Town staff shall study the Town's current codes and ordinances to determine the land use and other regulatory implications of the Activities, and consider what locations, if any, and conditions of approval, if any, might be appropriate for the Activities; and

**WHEREAS**, a moratorium is necessary to prevent a shortage or an overburdening of public facilities that is reasonably foreseeable as a result of the Activities; and

**WHEREAS**, it is anticipated that such a study, review, and development of recommended ordinances, amendments, or other regulatory changes will take at least one hundred and eighty (180) days from the date the Town enacts this Ordinance;

**NOW, THEREFORE, BE IT ENACTED** by the Board of Selectmen of the Town of Howland that this Ordinance, entitled "Moratorium Ordinance on Certain Medical Marijuana Activities," be and hereby is, enacted, and, in furtherance thereof, the Board of Selectmen does hereby declare a moratorium on the location, operation, or licensing of any registered caregiver retail stores and registered dispensaries through the expansion contemplated in P.L. 2017, ch. 452, marijuana testing facilities, and marijuana manufacturing facilities within the Town of Howland, all as contemplated in P.L. 2017, ch. 452, within the Town.

This Ordinance shall take effect, once enacted by the Board of Selectmen, in accordance with the provisions of the Town Charter, current Town codes and ordinances, and the provisions of this Ordinance, but shall be applicable as of July 9, 2018, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Board of Selectmen, for the express purpose of drafting an amendment or amendments to the Town's current codes and ordinances to protect the public health, safety, and welfare.

**BE IT FURTHER ENACTED**, that this Ordinance shall apply to any and all of the Activities that may be proposed to be located within the Town on or after the July 9, 2018, the applicability date of this Ordinance; and

**BE IT FURTHER ENACTED**, that notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any application, pending or otherwise, for a building permit, certificate of occupancy, site plan, or any other required approval regarding any and all of the Activities that has not been submitted or that has not been granted final approval by the Code

Enforcement Officer, Planning Board, or other Town officials or boards prior to July 9, 2018, the applicability date of this Ordinance; and

**BE IT FURTHER ENACTED**, that no person or organization shall develop, operate, or conduct any or all of the Activities covered by this Ordinance on or after the July 9, 2018 applicability date without complying with whatever Ordinance amendment or amendments the Board of Selectmen may enact as a result of this Moratorium Ordinance; and

**BE IT FURTHER ENACTED**, 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, deny, or in any other way act upon any application for a license, building permit, certificate of occupancy, special exception review, site plan review, and/or any other permits or licenses related to the Activities; and

**BE IT FURTHER ENACTED**, that those provisions of the Town's current codes and ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

**BE IT FURTHER ENACTED**, that if any person violates any provision 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 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; and

**BE IT FURTHER ENACTED**, that this Moratorium Ordinance shall not apply to the existing medical marijuana dispensaries or medical marijuana cultivation facilities as previously defined and contemplated under the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421-2430-B) in the Town of Howland for activities previously authorized prior to July 9, 2018; and

**BE IT FURTHER ENACTED**, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: July 9, 2018

Howland Board of Selectmen on this 27 day of AUGUST, 2018

Dwight Dawson

Myra

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M. J. R.

M. S. R.