

South Portland City Council
Position Paper of the City Manager

Subject:

ORDINANCE #19-16/17 - Amending Chapter 14, "Licensing", regarding extension of moratorium on the licensing of retail marijuana establishments and marijuana social clubs. First reading. Passage requires majority vote.

Position:

On December 19, 2016, the City Council enacted Ordinance #7-16/17 establishing a moratorium on retail marijuana establishments and retail marijuana social clubs. The moratorium is in effect until May 20, 2017.

The moratorium was enacted in response to a ballot initiative to legalize, regulate, and tax marijuana for non-medicinal purposes known as the "Marijuana Legalization Act," to be codified in the Maine Revised Statutes in Title 7, Chapter 417 (the "Act"), which was adopted by the voters at a State-wide referendum election on November 8, 2016. Pursuant to the Act, the State of Maine as licensing authority must adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale, and testing of retail marijuana and retail marijuana products and for the enforcement of the Act on or before November 30, 2017. The Maine Legislature's Joint Select Committee on Marijuana Legalization Implementation is currently working to help guide the State agencies that will craft the rules and regulations around the recreational marijuana industry. The State of Maine licensing authority that is to draft the rules and regulations around the recreational marijuana industry has not done so yet. It is anticipated that these rules and regulations will address requirements for business entity and individual background checks, business operating plans, canopy size, cultivation plan, electricity and water use, premises security, product transportation, inspections, and minor access control. There may also be some additional rules and regulations developed related to medical marijuana caregiver cultivation.

State statute specifically allows the City Council to extend the moratorium so long as it finds that the problem giving rise to the need for the moratorium still exists and reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium. See 30-A M.R.S.A. § 4356(2).

Following a workshop with the City Council on March 8, 2017, staff and Corporation Counsel have started work on proposed licensing ordinance amendments related to the licensing of retail marijuana establishments. However, the task has proven to be very difficult because we do not know what the State of Maine regulatory framework for the

recreational marijuana industry will be and so we do not know where the City does or does not need to regulate in order to fill in any gaps identified in the State licensing scheme.

The City Council has scheduled a workshop on the topic of marijuana for May 22, 2017. Staff believes additional time would allow the City Council and staff to further consider what licensing requirements might be appropriate for such retail marijuana establishments.

The moratorium extension would be effective for 180 days from May 21, 2017 (*i.e.*, until November 16, 2017) but it could be terminated early if appropriate.

Requested Action:

Council passage of first reading of the ordinance and set May 15, 2017 as the date for the City Council's public hearing and final action on the ordinance.



City Manager



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH
Mayor

SCOTT T. MORELLI
City Manager

EMILY F. SCULLY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

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CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
SUSAN J. HENDERSON

**IN CITY COUNCIL
ORDINANCE #19-16/17**

THE COUNCIL of the City of South Portland hereby ordains that Chapter 14, "Licensing," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

**CHAPTER 14
LICENSES, PERMITS AND BUSINESS REGULATIONS GENERALLY**

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**ARTICLE XVI. MORATORIUM ON RETAIL MARIJUANA
ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS**

Sec. 14-772. Moratorium extended.

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

WHEREAS, the results of the ballot initiative were certified by the Secretary of State and subsequently proclaimed by the Governor on December 31, 2016, and the Act became law effective on January 30, 2017;

WHEREAS, applicable as of January 30, 2017, the Maine Legislature amended the Act to reflect that its operative provisions – including the provisions pertaining to State licensing and municipal regulation – do not become effective until February 1, 2018;

WHEREAS, pursuant to the Act, the State of Maine licensing authority must adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the Act on or before November 30, 2017;

WHEREAS, a moratorium on retail marijuana establishments and retail marijuana social clubs was enacted by the City Council on December 19, 2016 for a period of one hundred and eighty (180) days from the date of applicability of the moratorium, i.e., until May 20, 2017;

WHEREAS, the Maine Legislature's Joint Select Committee on Marijuana Legalization Implementation is working to help guide the state agencies that will craft the rules and regulations around the recreational marijuana industry;

WHEREAS, the State of Maine licensing authority that is to draft the rules and regulations around the recreational marijuana industry has not done so yet;

WHEREAS, the City needs to know the State of Maine regulatory framework for the recreational marijuana industry before it can determine the local licensing and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, the problems giving rise to the need for the moratorium still exist and reasonable progress is being made to alleviate the problems;

NOW, THEREFORE, the City of South Portland, acting through its City Council, does hereby ordain that all provisions of Secs. 14-770 and 14-771 are hereby extended for an additional one hundred and eighty (180) days from May 21, 2017 to November 16, 2017.

Fiscal Note: Less than \$1,000

Date: May 1, 2017