

# Legal Marijuana & Municipalities

**December, 2016**

Last month Maine voters narrowly approved a ballot measure legalizing the personal use, possession and cultivation of marijuana by persons 21 years of age and older and the operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs for on-premises sale and consumption.

Barring other developments (for instance, a recount resulting in reversal of the vote), the new law will take effect either 30 days after the Governor proclaims the results of the vote or, if additional funds are required to implement the new law (as appears likely), 45 days after the next regular session of the Legislature convenes. In any event, the effective date of the new law will almost certainly be no earlier than sometime in January 2017, but it could be considerably later depending on a number of as-yet-unknowns.

As of the effective date – whenever it may be – it will be legal for adults to use, possess and cultivate “recreational” amounts of marijuana. However, retail marijuana stores and social clubs and commercial-scale cultivation, manufacturing and testing facilities will require annual State licenses under the new law. And the Department of Agriculture, Conservation and Forestry has up to nine months to adopt rules for licensing and operation of these establishments. So as a practical matter they will not be able to obtain licenses or operate legally until at least late 2017.

Under the new law, all required State licenses apparently require local approval as well, though it is not yet clear who on the local level decides or on what basis. Municipalities are also authorized, by ordinance, to regulate the number, location and operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, and to impose a separate local licensing requirement. In the alternative, municipalities may, by ordinance, entirely prohibit any or all of these establishments.

For municipalities that may want to allow but regulate retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, it will be difficult to calculate how best to do so until after final rulemaking by the department and perhaps corrective or at least clarifying legislation. This will all probably take many months. To prevent unwanted developments in the meantime, we recommend adopting a moratorium ordinance. For a sample, download attachment 1 below.

For general information and advice on moratorium ordinances, see our “Information Packet” on the subject, available free to members at [www.memun.org](http://www.memun.org).

For municipalities that want to prohibit retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs entirely, there is no need to wait for rulemaking or more legislation. An ordinance prohibiting these establishments can be enacted any time (but probably

the sooner the better) before State licensing begins, probably in late 2017. For a sample, download attachment 2 below.

For more on the legal as well as the practical implications of the new law, be sure and watch for two full-length articles planned for the February 2017 issue of the Maine Townsman.

Also, MMA is sponsoring a workshop on the new law on Feb. 28, 2017, in Freeport. Presenters will be attorneys from the Portland law firm of Drummond Woodsum. Watch for details and registration information on our website ([www.memun.org](http://www.memun.org)). (By R.P.F.)

**Attachment 1:**

[https://www.memun.org/Documents.aspx?Command=Core\\_Download&EntryId=10137](https://www.memun.org/Documents.aspx?Command=Core_Download&EntryId=10137)

**Attachment 2:**

[https://www.memun.org/Documents.aspx?Command=Core\\_Download&EntryId=10138](https://www.memun.org/Documents.aspx?Command=Core_Download&EntryId=10138)