Section I. Moratorium Declared.

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act,” codified in the Maine Revised Statutes in Title 7, Chapter 417 (the “Act”), was adopted by the voters at a State-wide referendum election on November 8, 2016; and

WHEREAS, the Act has now taken effect, but the Legislature has passed as an emergency and with retroactive applicability to January 30, 2017 Public Law Chapter 1 delaying the effective date of the provisions related to retail establishments and retail marijuana social clubs until February 1, 2018; and

WHEREAS, the Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the local option to prohibit or limit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the Act requires the Department of Agriculture, Conservation and Forestry (the “CAF Department”) or its designee, as the State licensing authority for retail marijuana establishments and social clubs, to adopt rules within nine months of the effective date of the Act; and

WHEREAS, the Act authorizes municipalities to impose a separate local licensing requirement as part of their restrictions on time, place, manner and number of retail marijuana establishments and social clubs; and

WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Town’s current Land Use and Site Plan Review Ordinances do not include any land use development regulations related to retail marijuana establishments or retail marijuana social clubs; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of Pownal raises
legitimate and substantial questions about the impact of such establishments and social clubs on the Town, including questions about the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, business and commercial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the Town’s public safety departments; and the adequacy of the Town’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the unregulated location and operation of retail marijuana establishments and/or retail marijuana social clubs within the Town has potentially serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town needs time to review the Act and CAF Department rules proposed to be adopted pursuant to the Act and to review its own Land Use and Site Plan Review Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the Town’s current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development, location and operation of retail marijuana establishments and social clubs and other uses authorized by the changes in law voted on at the November 8, 2016 referendum election, thereby necessitating a moratorium; and

WHEREAS, the Board of Selectmen, with the advice and assistance of the Planning Board and such professional advice and assistance as it deems necessary and appropriate, shall study the Town’s current Land Use and Development Review Ordinances to determine the land use 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, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by the changes in law voted on at the November 8, 2016 referendum election, being located in the Town; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days
from the date the Town enacts this moratorium on retail marijuana establishments and retail marijuana social clubs;

NOW, THEREFORE, the Inhabitants of the Town of Pownal do hereby ordain that the following Ordinance be, and hereby is, enacted, and, in furtherance thereof, the Town does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town. This Ordinance shall take effect upon adoption by Town Meeting and shall be applicable as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of adoption 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 Land Use and Development Review Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in residential, business and commercial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety departments serving the Town in responding to the same; and the adequacy of the Town’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the Town.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act in 7 M.R.S.A. §§ 2442(35), (36), (38), (39), (40) and (41), that may be proposed to be located within the Town on or after the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, certificate of occupancy, site plan review and/or any other required approval has not been submitted to and granted final approval by the Building Inspector, Code Enforcement Officer, Planning Board, Board of Appeals or other Town official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the Town on or after the
applicability date of this Ordinance without complying with whatever ordinance amendment or amendments Town Meeting may enact as a result of this Ordinance; and

BE IT FURTHER ORDAINED, that during the time this moratorium 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 building permit, certificate of occupancy, site plan review and/or any other required land use approval or any permits, licenses or approvals related to a retail marijuana establishment or retail marijuana social club under the Land Use and Development Review Ordinances; and

BE IT FURTHER ORDAINED, that those provisions of the Land Use and Site Plan Review 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 ORDAINED, that if retail marijuana establishments or retail marijuana social clubs are established in violation 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 ORDAINED, 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.

Section II. Applicability date.

The applicability date of this Ordinance is the date of its adoption by Town Meeting.