


TOWN OF JEFFERSON

MEDICAL MARIJUANA ORDINANCE

Enacted - March 29, 2022

Attest: A true copy of an ordinance entitled “Town of Jefferson Medical Marijuana Ordinance” as certified to me by the municipal officers of Jefferson on the 26th day of January, 2022.

Signature  _____
Jefferson Town Clerk

Amended *May 31, 2022*

Amended *August 15, 2022*

Amended *December 5, 2022*

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I. Purpose and Authority

- A. To regulate the location, licensing and operation of Medical Use Marijuana establishments authorized by Maine Revised Statutes (MRS) Title 22, Chapter 558-C (Maine Medical Use of Marijuana Act) and Code of Maine Rules (CMR) 18-691, Chapter 2 (Maine Medical Use of Marijuana Program Rule) within the town of Jefferson, Maine. This ordinance intends to promote the health, safety and general welfare of the citizens of Jefferson, and to establish reasonable and uniform regulations for the appropriate location of Medical Use Marijuana businesses in town.
- B. The town reserves the right for additional siting and licensing requirements pursuant to Municipal Home Rule Authority and MRS Title 30-A section 3001.
- C. This Ordinance may not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise under Maine's Medical Use Marijuana laws and regulations, including but not limited to MRS Title 22 c. 558-C, except that Medical Use Marijuana stores operated by registered caregivers are subject to the provisions of this Ordinance.
- D. This Ordinance shall not be read in any way to infer that Adult Use Marijuana as per MRS Title 28-B, is sanctioned or governed by this Ordinance.

II. Definitions

For the Purpose of this Ordinance, unless the context otherwise indicates, the following terms have the following meanings:

- A. **Adult Use Marijuana:** marijuana cultivated, manufactured, distributed or sold by a retail marijuana establishment under MRS Title 28-B (Adult Use Marijuana).
- B. **Caregiver Retail Store:** a store that has attributes generally associated with retail stores including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients. PL 2019, c. 217, p 1. Caregiver retail stores are also known as Medical Use Stores as set forth in MRS Title 22 Chapter 558-C (Medical Use of Marijuana).
- C. **Loitering;** to stand or wait around idly or without apparent purpose.
- D. **Medical Marijuana Establishment:** For purposes of this Ordinance, a medical marijuana establishment shall mean any facility where retail sales of medical marijuana are conducted. A caregiver or patient residence shall not be considered a medical marijuana establishment under this ordinance unless the applicant is conducting activities on site that exceed the allowed activities under Title 22 MRS, ch 558-C (Maine Medical Use of Marijuana Act).
- E. **Medical Marijuana Registered Dispensary:** Medical Marijuana Registered Dispensary means an entity as defined under Title 22 MRSA, Chapter 558-C, Section 2428(6). A Medical Marijuana Registered Dispensary shall be further defined by, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (CMR 18-691, Ch. 2), as the same may be amended from time to time.

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- F. **Medical Use Marijuana:** marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient’s medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under MRS Title 22, chapter 558-c.
- G. **Permit:** a document issued by the Town officially authorizing an applicant to operate a medical marijuana establishment.
- H. **Resident:** an individual who is domiciled in the State of Maine, maintains a permanent place of abode in the State and spends the aggregate of more than 183 days of the taxable year in Maine. For the first year of this ordinance, the applicant must also be a resident of the Town of Jefferson as per paragraph V. A. 1 of this ordinance.
- I. **Town:** Town of Jefferson, Maine.

III. Site Requirements

- A. Any medical marijuana establishment shall petition the Planning Board for site and business approval. A petition for approval (i.e., Permit) shall be submitted for initial approval, change of use, and any changes of ownership. A change of ownership shall require a new permit to be obtained by the new owner.
- B. Each medical marijuana establishment shall meet the minimum State standards. No permit shall be granted for any marijuana establishment within five hundred (500) feet of the boundary of any school, daycare or place of worship.
- C. Municipal and State Codes: No permit shall be granted for any medical marijuana establishment unless the premises concerned are in complete compliance with all Municipal and State Codes, Statutes, Licensing Requirements, Rules and Regulations.
- D. Fire Safety: New construction, alterations, additions and conversions shall comply with the most recent addition of the Life Safety Code, National Fire Protection Association 101, enforceable by the Town of Jefferson’s Code Enforcement and Fire Chief.
- E. Signage: All signage shall meet the requirements of the State of Maine per MRS Title 23, section 1914 (On-premises signs) and MRS Title 22, eh. 558-C, section 2429-B (Signs, advertising and marketing). Signage shall not be excessively attractive to children. Proposed signage shall be submitted with each application to the Planning Board.
- F. Security: Medical marijuana establishments shall meet minimum State security standards as cited in CMR 18-691, Ch. 2 (Maine Medical Use of Marijuana Program Rule).
- G. The retail space of Retail Caregiver Stores shall not exceed eight hundred (800) square feet and must meet all State laws and local building requirements.
- H. Ventilation: Any indoor operation of a marijuana facility shall meet the minimum State requirements for ventilation.
- I. Permanent Location: Each medical marijuana establishment shall be operated from a permanent location. No marijuana establishment shall be permitted to operate from a moveable, mobile, or transitory location.
- J. Medical marijuana retail stores shall be clearly visible from the road at all times of the year.

- K. More than one medical marijuana establishment (cultivation facility and/or manufacturing facility) may be co-located and operated within the same building, structure or portion thereof, as long as all State laws and local requirements are met. This provision shall not apply to caregiver retail stores.

IV. Permit Application

A person seeking an initial permit shall submit a completed site plan review application to the code enforcement officer (CEO), to be placed on the Planning Board agenda for review.

An applicant applying for a renewal permit issued pursuant to this Ordinance shall submit a copy of their State renewal application to the Town Clerk. Permits shall not be issued to any legal entity other than in the name of the individual person applying for the permit.

A. The applicant shall:

1. Provide full name and address of residency.
2. Furnish proof of lawful residence. Proof of lawful residence may be made by providing two (2) of the following documents:
 - a. A valid State of Maine motor vehicle operator license;
 - b. A valid State of Maine motor vehicle registration certificate;
 - c. A valid State of Maine fishing or hunting license;
 - d. Voter registration card; or,
 - e. A current invoice from a utility company in the name of the applicant.
3. Provide full name and complete physical address of the proposed marijuana establishment.

B. If the applicant has had a previous permit under the Ordinance or has had a permit/ license revoked, denied or suspended by the Town, the State of Maine or any other municipality or township; the applicant must provide this information relating thereto, as well as the date and factual findings and findings for the denial, suspension or revocation. They shall also identify whether the applicant has been, is an owner or partner, in a partnership, is an officer, direct or principal stockholder of a corporation that is permitted/licensed by the Town, State of Maine or any other municipality or township, whose permit/license has previously been denied, suspended or revoked, and shall identify the name and location for which the permit/license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

C. Upon submission of the application to the Town Clerk, it will then be reviewed for approval/denial by 1) Code Enforcement Officer, 2) Fire Chief or designated authority, 3) Planning Board and 4) Select Board.

V. Permit Requirements

- A. Any person operating a Caregiver Retail Store within the Town must obtain a permit which shall be granted based on approved State documentation for a Primary Caregiver, as set forth in MRS Title 22, chapter 558-C (Maine Medical Use of Marijuana) including regulations and amendments thereto.

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1. From the date of the enactment of this Ordinance for the period of one (1) year, all applicants must have been a resident of the Town for the previous two (2) years. In the case of a business entity applying for a permit (e.g., LLC), at least one officer/director of that business shall be a Jefferson resident.
 2. All first-time applications must be delivered in-person to the Town's Code Enforcement Officer (CEO) and must be delivered by the applicant. During the review process for first-time applications (excluding permit renewal), if there are more applications than permits (in the case of marijuana stores), preference will be given to applicants who:
 - a) Have a medical marijuana establishment previously approved by the Town Planning Board.
 - b) Have been a resident of the Town for a minimum of two (2) years prior to submitting their application (Note: In the case of a business entity applying for a permit (e.g., LLC), at least one officer/director of that business shall be a Jefferson resident.) and
 - c) Have submitted a complete application date and time stamped by the Town Office.
 3. Any permit issued shall expressly be designated for a Caregiver Retail Store only.
 4. Permits are valid for one (1) year and shall be reviewed annually for renewal by the Town Select Board upon receipt of a renewal application.
 5. Permits shall be kept current at all times; failure to maintain all conditions of a Town permit and all required State licenses and permits, shall serve to immediately suspend a Town permit, subject to revival upon compliance and reissuance of any suspended license or permit.
 6. Applicants must be at least twenty-one (21) years of age.
 7. Applicants must be a resident of the State of Maine on the date of application.
 8. Permits shall be posted in a conspicuous location.
 9. Permits shall not be assigned or transferred.
 10. The Code Enforcement Officer shall ensure that the applications are complete before they are reviewed by the Planning Board. Applications which are incomplete, or contain false or misleading information shall not be processed by the Code Enforcement Officer.
 11. Any applicant receiving notification of non-compliance from either the Code Enforcement Officer or the Fire Chief's inspections has ninety (90) days to come into compliance. The applicant shall notify the Code Enforcement Officer or the Fire Chief when compliant for a final inspection approval or their application will be denied.
- B. The Town shall permit no more than a total of three (3) Caregiver Retail Stores, each with not more than 800 sq. ft. of retail/selling space located within the Town.

Should a previously approved store-front establishment fail to promptly renew their Town

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permit during the designated renewal period, their permit may be awarded to another prospective applicant on the approval of the Planning Board.

1. Applications for new permits received by the Town Clerk could take up to ninety (90) days for issuance or denial of the permit.
2. Applications for permit renewals must be received by the Town Clerk ninety (90) days prior to the anniversary of the issuance of a permit.
3. No person may establish, operate, or maintain a Medical Use marijuana store without first obtaining a permit from the Municipal Officers. Due to the limited number of permits available in the town of Jefferson, (two [2] Medical Use stores), permit holders must have a business plan in place and be working toward meeting all Maine Requirements and licensure in advance of the one year permit review date. If the permit holder cannot show progress toward licensure and permit acquisition, provide proof of a store location, provide proof of acquisition of a state tax ID number, a retailer certificate, and be taking steps toward establishment of a marijuana store in a timely fashion, permit renewal may be denied by the Select Board.

VI. Permit Fees

The Town will implement permit fees as reflected by the Town's fee schedule, and shall be subject to amendment by the Select Board. As of the original enactment of this Ordinance, the initial application fee is \$2,500 and the annual permit fee is \$5,000.

VII. Suspension or Revocation

A. The Select Board may, after notice and public hearing, suspend, revoke or refuse to renew a permit for a medical marijuana establishment for failing to comply with this Ordinance and/or MRS Title 22 ch. 558-C (Medical Use Marijuana) and/or CMR 18-691, Chapter 2 (Maine Medical Use of Marijuana Program Rule). Compliance failures include but are not limited to:

1. Number and/or types of complaints law enforcement received and investigated;
2. Failing to correct or abate any violation of any local ordinance or code;
3. Failure to maintain all State permits;
4. Conviction of a crime of deception or any felony level crime;
5. Repeated failures to adhere to all requirements of this ordinance.

VIII. Regulations

- A. Types of Establishments: Although there are several types of medical use marijuana establishments, the only type covered in this Ordinance is for a Caregiver Retail Store and as such, must be approved individually and shall be separately permitted.
- B. Background history: Any application for a permit to operate any medical marijuana establishment must meet minimum standards set forth by Maine state law and shall fully disclose accurate information as requested as part of the application process.

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- C. Required Notices: There shall be posted, in a conspicuous location inside each Caregiver Retail Store, at least one legible sign containing the following information:
1. Use or allowing on-site consumption of marijuana or related products is illegal;
 2. Open and public consumption of marijuana in the State of Maine is illegal;
 3. The use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery;
 4. No one under the age of twenty-one (21) shall be allowed inside of an Adult Use retail establishment; and,
 5. Loitering is prohibited.
- D. Hours of Operation: Caregiver Retail Stores shall operate within the hours of 7am - 9pm.

IX. Right of Access

Every medical marijuana establishment shall allow State or local law, fire, safety, and Code Enforcement Officers with jurisdiction over the Town, including but not limited to law enforcement, code enforcement, and fire marshals, to enter the premises at reasonable times for the purpose of investigating compliance with this Ordinance and 18-691 CMR Ch. 2 Section 10 (Compliance and Enforcement).

X. Indemnification

- A. By accepting a permit issued pursuant to this Ordinance, the permit holder waives, releases and shall hold harmless and indemnify including reimbursement of reasonable attorney fees incurred by the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities which arise out of the use of the permitted premises of any marijuana establishment, including acts or omissions by its owners, operators, representatives, employees, clients or customers, which arise out of any violations of any local, state or federal law, rule or regulation.
- B. By accepting a permit issued pursuant to this Ordinance, all permit holders, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents and insurers against all liability claims and demands on account of any injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the use, occupation and/or operation of a permitted marijuana establishment.

XI. State Law

In the event the State of Maine adopts additional or stricter law or regulation governing marijuana, the stricter regulation shall apply. Compliance with all applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any permit under this Ordinance, and non-compliance with any applicable State law or regulation may be grounds for revocation or suspension of any permits issued hereunder.

XII. Retail Sales Tax Option

All medical marijuana establishments shall be subject to the maximum sales tax authorized by the State and/or Town.

XIII. Amendments

This ordinance may be amended by the Select Board of the Town of Jefferson.

XIV. Penalties

This ordinance shall be enforced by the Code Enforcement Officer. Violations of this Ordinance shall be subject to the enforcement and penalty provisions of MRS Title 30-A Section 4452, including the requirement of reimbursement of all attorney fees for any related prosecution for compliance and/or a violation of this ordinance. Any prosecution of an enforcement action in Court shall be authorized by the Select Board.

XV. Severability

If any portion of this Ordinance is determined invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining portions of the Ordinance.

XVI. Appeals

An aggrieved party may appeal any decision of the Code Enforcement Office under this Ordinance to the Town's Board of Appeals as a de novo review, within forty five (45) days of the date of the Notice of Violation.

An aggrieved party may appeal the issuance, or denial to issue a permit, by the Planning Board to the Town's Board of Appeals, for clear error made in the factual findings or legal conclusions reached by the Planning Board. Any such appeal shall be an appellate review based on the record created at the Planning Board hearing, and it shall not be a de novo review.

An appeal of the decision by the Board of Appeals shall be to Superior Court in compliance with Rule 80B of the Maine Rules of Civil Procedure.

XVII. Effective Date

The effective date of this Ordinance shall be immediately after approval by the Select Board of the Town of Jefferson.

Amendments

1. Changed hours of operation to close at 9:00 PM. (May 2022)
2. Increased number of medical marijuana establishments from two to three. (August 2022)
3. Notice of noncompliance guidelines added. (August 2022)
4. Clarified definition of resident. (December 2022)