

**Town of Madawaska**

**Medical Marijuana Ordinance**

**General Requirements**

**A. Purpose and Authority:**

The State of Maine has enacted the Maine Medical Use of Marijuana Act, Title 22 MRSA Section 2421, et seq. which authorizes the licensing and operation of dispensaries for the cultivation and sale of marijuana for medical use.

Title 22 MRSA §2428 (10) authorizes any political subdivision of the State of Maine to limit the number of dispensaries that may operate in the political subdivision and to enact reasonable regulations applicable to dispensaries.

The Town of Madawaska wishes to exercise its constitutional home rule authority to regulate the number, location and safe operation of Registered Medical Marijuana Dispensaries and Cultivation Facilities located within the Town of Madawaska.

This Ordinance shall serve to govern the location and licensing requirements specific to the Town of Madawaska for the operation of a Registered Dispensary and Cultivation Facility.

These standards are intended to provide review criteria and guidance.

**B. Definitions:**

For the purpose of this Ordinance, the following definitions apply:

Day Care Facility: "Day Care Facility" shall mean any dwelling, building, or portion thereof which child day care services are provided including any on-site outdoor play area as permitted by the Town.

House of Public Worship: "House of Public Worship" shall mean any building or place of assembly as so defined under Title 13 MRSA Chapter 93.

Marijuana: The dried leaves and flowering tops of the pistillate hemp plant that yield THC (tetrahydrocannabinol) and as defined within Title 17-A M.R. S. A. Section 1101 (1).

Registered Cultivation Facility: "Registered Cultivation Facility" or "Cultivation Facility" shall mean any site used for the cultivation of Marijuana whether at the location and a part of a Registered Dispensary or an associated offsite location meeting all State requirements pursuant to the licensing of the Dispensary.

Registered Dispensary: "Registered Dispensary", "Dispensary" or "Registered

A TRUE AND ATTESTED COPY  
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Nonprofit Dispensary” means a not-for-profit entity that is registered by the Maine Department of Human Services that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients in accordance with the Maine Medical Use of Marijuana Act.”

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind.

**C. General Requirements & Application Process:**

1. No building, structure or land shall be used or occupied as a Registered Dispensary or Cultivation Facility without the prior review and approval of the Madawaska Planning Board as provided in this Ordinance. The requirements of this Ordinance shall apply to any and all, ancillary structures, mobile units, or any future types of dispensary mechanisms as yet contemplated within this Ordinance.
2. Any person or entity seeking to construct and/or operate a Registered Dispensary or Cultivation Facility in the Town of Madawaska shall first submit a written application for a land use permit. The application shall be signed by the applicant and contain the following:
  - (a) A description of the project;
  - (b) A copy of the deed for the property, option to purchase, or other documentation to demonstrate right, title or interest in the property on the part of the applicant;
  - (c) The name and address of the owner of record or developer, if different;
  - (d) A sketch that depicts the property boundaries & land area;
  - (e) The size, shape and location of all existing and proposed buildings;
  - (f) Location and layout of vehicular parking areas, walkways, fences, driveways with dimensions;
  - (g) Location of outdoor storage areas and signs;
  - (h) Plans for all proposed exterior lighting including location and type; and security system plans;
  - (i) An application fee of \$500.00.
3. A public hearing will be scheduled to consider any application to establish or operate a Registered Dispensary or Cultivation Facility in the Town of Madawaska. Said public hearing shall be conducted prior to final action on the application.
4. All abutting property owners within 1,000 feet of the property involved, including those property owners directly across from any public way of the property involved, shall be given certified mail notice of the public hearing at least 14 days prior thereto by the applicant. In addition, notice of the meeting and the agenda shall be published in the local newspaper at least seven (7) days before the date of the meeting and posted in seven (7) places of general public access by the applicant. The notice shall include a brief

description of the application and the time and place of the meeting.

#### **D. Zoning Districts**

Registered Medical Marijuana Dispensaries and Cultivation Facilities will be allowed in the Commercial, Industrial, and Low Density Residential zoning districts.

#### **E. Review Standards**

1. The following criteria and standards shall be utilized by the Planning Board in reviewing applications to establish or operate a Registered Dispensary or Cultivation Facility in the Town of Madawaska. The burden of proof shall rest with the applicant to show that the proposed land use activity is in conformity with the provisions of this ordinance in all respects.
2. The Planning Board shall approve the application unless the proposed development does not meet the following standards:
  - (a) All cultivation of marijuana must take place in an enclosed, locked facility unless the plants are being transported between the dispensary and a location at which the dispensary cultivates them as disclosed to the Maine Department of Human Services. The cultivation and dispensary operations shall be on one lot/land parcel.
  - (b) No Registered Dispensary or Cultivation Facility shall be allowed within 300 feet of an existing residential dwelling and 100 feet of a property line.
  - (c) No Registered Dispensary or Cultivation Facility shall be located within 1000 ft. of property lines of any Public School, Day Care Facility, House of Public Worship, Bus Transfer site, Public Park, Municipal Building.
  - (d) The proposed development must be in compliance with all municipal, state and federal Codes and regulations and be licensed by the Maine Department of Human Services.
  - (e) Any Registered Dispensary, which dispenses marijuana on site, must provide an interior waiting area to ensure no exterior waiting of clients with a minimum of 100 square feet.
  - (f) Any Registered Dispensary and Cultivation building which dispenses marijuana on site, must provide off street parking with 1 parking space per every 150 square feet of interior space. Each parking space shall be a minimum of 10 feet wide by 20 feet long. A minimum of five (5) separate parking spaces will be for clients with separate ample parking for employees and equipment.

- (g) A dispensary shall not have on-site display of marijuana plants.
- (h) A dispensary shall only operate between the hours of 7am and 7pm, and no dispensary operations shall be allowed on Sundays
- (i) Security requirements for any Registered Dispensary or Registered Cultivation Facility shall include as a minimum:
1. Lockable doors and windows to include intrusion alarms with audible and police notification components sending notification directly to or through a second party to the Maine State Police.
  2. Exterior security lighting comprised of spotlights with motion sensors covering the full perimeter of the facility.
  3. Video surveillance capable of covering the entire perimeter of the facility, interior, and all plants cultivated within the facility. The video surveillance system shall be operated with continuous off premises recording twenty-four hours per day seven days per week and such records of surveillance shall be retained for a minimum duration of 90 days.
  4. No more than one (1) Registered Dispensary or Cultivation Facility per 5000 residents shall be permitted to operate or located in the Town of Madawaska.
  5. *Public Hearing:* The Planning Board shall, prior to granting any new permit or annual permit renewal, provide for not less than 7 days notice of a public hearing, within 30 days upon the receipt of the completed application, to receive written and verbal testimony from the applicant and interested members of the public pursuant to the granting of a permit.
  6. *Factors in issuing permit:* In granting or denying an application, the Planning Board Members shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
    - A. Conviction of any officer, board member or employee of the Registered Dispensary or Cultivation Facility of any Class A, Class B, or Class C crime; or a Class D or E Conviction on a drug related offense;
    - B. Noncompliance of the licensed Dispensary or Cultivation Facility or its use with any local zoning ordinance or land use ordinance;
    - C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on the licensed premises

and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb or interfere with the ability of persons or businesses to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on the licensed premises and caused by persons patronizing or employed by the licensed premises;

E. Any violation of State Law or Madawaska Ordinance directly related to the operation under the provisions of law of the Registered Nonprofit and For-Profit Dispensary or Registered Cultivation Facility.

7. *Term of License:* A permit shall be valid for only one (1) year from the date of first issuance and shall be subject to meeting all requirements as set forth in this Chapter for subsequent renewal.
8. Annually, within 30 days prior to the license renewal date; the Dispensary and Cultivation Facility shall be inspected by Code Enforcement and the State Fire Marshall to insure that the Dispensary is in compliance with ADA requirements, and Fire Safety and Security requirements.

**Suspension or Revocation of a Permit:**

The Planning Board may, after public hearing preceded by notice to the Applicant and interested parties, suspend, or revoke any permit issued for the operations of either a Registered Nonprofit and For-Profit Dispensary or Registered Cultivation Facility, which have been issued under this Article, on the grounds that the continued operations of the facility would constitute a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

**Rules and Regulations:**

The Planning Board is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of Registered Nonprofit Dispensaries or Registered Cultivation Facilities permits and other limitations of these operations required to protect the public health, safety and welfare. These rules and regulations may specifically amend the determination of the location and size of permitted premises, or other operational considerations that would otherwise impact the public's well being. Notification to Planning Board must be made prior to any deviation or change of business hours.

**Permit and Appeal Procedures:**

*Notice of decision.* Any Licensee requesting either a Registered Dispensaries or Registered Cultivation Facilities permit from the Planning Board shall be notified in writing of the board's decision no later than thirty-five (35) days from the date the

request was received by the Town Clerk. In the event that a Licensee is denied a permit, the Licensee shall be provided with the reasons for the denial in writing. The Licensee may not reapply for a permit within 30 days after an application for a permit that has been denied.

*Appeal.* Any Licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the Municipal Board of Appeals as defined in 30 MRSA §2411. The Municipal Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

**Penalty:**

Whoever violates any of the provisions of this Article shall be punished by a fine of not more than One Hundred (\$100) for the first offense, and up to Twenty-five Hundred Dollars (\$2,500) for subsequent offenses, to be recovered, on complaint, to the use of the Town of Madawaska. Penalties are set pursuant to Title 30-A MRSA §4452, 3 Civil Penalties, paragraph B, the minimum penalty for a specific violation is \$100.00, and the maximum penalty is \$2,500.00.

**Separability:**

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

**Effective Date:**

Notwithstanding the provisions of 1 M.R.S.A. Section 302 and regardless of the date on which it is approved by the voters, this ordinance shall be effective when adopted by the voters of Madawaska and shall govern any and all applications for permits, licenses or approvals required under this ordinance that were or have been pending before any officer, board or agency of the Town of Madawaska.