

Town of Northport

Adult Use and Medical Use Marijuana Ordinance



12-19-2019

I. PURPOSE AND AUTHORITY

- A. To Regulate the location, licensing and operation of Adult Use and Medical Use Marijuana establishments authorized by Maine Revised Statutes (M.R.S.) Title 28-B, Section 104 (Adult Use Marijuana) and M.R.S. Title 22 c. 558-C (Medical Use Marijuana), within the Town of Northport. The Town also reserves the right for additional siting and licensing requirements pursuant to Municipal Home Rule Authority and M.R.S. Title 30-A s. 3001. This Ordinance intends to promote the health, safety and general welfare of the citizens of Northport, and to establish reasonable and uniform regulations for the appropriate location of Adult Use and Medical Use Marijuana businesses in Northport.
- B. The licensing of retail marijuana social clubs in the Town is prohibited.
- C. This Ordinance may not be construed to limit any privileges or rights of a qualifying patient, caregiver, or registered caregiver under Maine's Medical Use Marijuana laws and regulations, including but not limited to M.R.S. Title 22 c. 558-C, except that Medical Use Marijuana stores operated by registered caregivers are subject to the provisions of 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 M.R.S. Title 28-B
- B. 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 M.R.S. Title 22, c. 558-C.
- C. Retail Marijuana Establishment: Adult Use or Medical Use retail marijuana stores, retail marijuana cultivation facilities, retail marijuana manufacturing facilities, or retail marijuana testing facilities and all other definitions relevant to this Ordinance are defined as set forth in M.R.S. Title 28-B (Adult Use Marijuana), M.R.S. Title 22 c. 558-C (Medical Use Marijuana), and as said section may be amended.
- D. Permit: a document issued by the Town officially authorizing an applicant to operate a retail marijuana establishment.
- E. Loitering: to stand or wait around idly or without apparent purpose.
- F. Resident: an individual who is domiciled in the State of Maine, maintains a permanent place of abode in the State and spends in the aggregate more than 183 days of the taxable year in Maine plus has filed a resident individual tax return in this State pursuant to M.R.S. Title 36, Part 8 in each of the four (4) years prior to the year in which the person files an application of licensure under this chapter.
- G. Town: Town of Northport, Maine.

III. SITE REQUIREMENTS

- A. Any marijuana establishment shall petition the Planning Board for site and business approval. A petition for approval shall be submitted for initial approval, change of use, and any changes of ownership. A change in ownership shall require a new permit to be obtained by the new owner.
- B. Each marijuana establishment shall meet the minimum State standards. No permit shall be granted for any retail marijuana establishment within one thousand (1000) feet of the boundary of any public or private school or place of worship.
- C. Municipal and State Codes: No permit shall be granted for any retail marijuana establishment unless the premises concerned is in complete compliance with all Municipal and State Codes, Statutes, Licensing requirements, Rules and Regulations.
- D. Signage: All signage shall meet the requirements of the State of Maine. Signage for retail Marijuana establishments in the Town of Northport shall not be excessively attractive to children. Projected signage shall be submitted with each application to the Planning Board.
- E. Security : Both Medical Use and Adult Use retail marijuana establishments shall meet minimum State security standards
- F. The retail space of Adult Use or Medical Use marijuana stores shall not exceed eight hundred (800) square feet and must meet all State laws and local requirements.
- G. Ventilation: Any indoor operation of a marijuana facility shall meet the minimum State requirements for ventilation.
- H. Permanent Location: Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be permitted to operate from a movable, mobile or transitory location.
- I. All marijuana retail stores shall be clearly visible from the road at all times of the year.
- J. More than one Adult Use or Medical Use business, (Cultivation facility, and/or manufacturing facility and/or testing 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.

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 present one (1) of the following forms of identification upon submission of an application to operate a retail marijuana establishment:
 1. A valid State of Maine motor vehicle operator's license;
 2. A current State of Maine Identification card;
 3. A United States Military Identification card; or,
 4. A valid passport

- B. The applicant shall have sufficient right, title or interest in the retail marijuana establishment.
- C. The applicant shall:
 - 1. Provide full name, address and date of birth
 - 2. Acknowledge and consent that the Town will conduct a background investigation, including a criminal history check.
 - 3. 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's 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.
 - 4. The name and complete physical address of the proposed retail marijuana establishment.
- D. If the applicant has had a previous permit under this Ordinance or has had a permit/license revoked, denied or suspended from 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 basis for the denial, suspension or revocation, and they shall also identify whether the applicant has been, or is an owner, partner, in a partnership or an officer, director 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 of the marijuana business for which the permit/license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

V. PERMIT REQUIREMENTS

- A. Any person operating a retail marijuana establishment within the Town must obtain a permit which shall be granted on the same criteria and regulations as set forth in M.R.S. Title 28-B, Section 104, Adult Use Marijuana including all regulations and amendments thereto.
 - 1. The Town permit shall be granted contingent upon, and therefore not in effect, until the applicant having obtained all required State licenses, and evidence of the same has been submitted and acknowledged as received and conforming by the Town Code Enforcement Officer.
 - 2. Any permit issued shall expressly be designated, and therefore limited, to one or more of the following classifications:
 - a. Adult Use retail marijuana cultivation facility;
 - b. Adult Use retail marijuana store;
 - c. Adult Use retail marijuana products manufacturing;
 - d. Adult Use retail marijuana testing facility;

- e. Medical Use marijuana cultivation facility;
 - f. Medical Use marijuana store;
 - g. Medical Use marijuana products manufacturing; and
 - h. Medical Use marijuana testing facility.
3. 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
 4. 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.
 5. Applicant must be at least twenty-one (21) years of age.
 6. Applicant must be a resident of the State of Maine on the date of the application and for the four (4) years immediately preceding the date of the application.
 7. Permits shall be posted in a conspicuous location at all retail marijuana establishments.
 8. Permits shall not be assigned or transferred.
 9. Upon the Town Code Enforcement Officer's receipt of an application for a new permit, the Town shall schedule a public hearing on the application to be held within thirty (30) days of the Planning Board decision the application is complete.
 10. The Code Enforcement Officer shall insure that 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. Applications for permit renewals must be received by the Town Clerk thirty (30) days prior to the anniversary of issuance of a permit.
- B. The Town shall permit no more than a total of six (6) marijuana stores three (3) Adult Use marijuana stores and three (3) Medical Use marijuana stores, each with not more than 800 sq ft of retail/selling space located within the Town, at any given time. Should a previously approved store-front establishment fail to promptly renew their Town permit during the designated renewal period, their permit may be awarded to another prospective applicant on the approval of the Planning Board.
- C. All first-time applications must be delivered in-person to the Town Code Enforcement Officer and must be delivered by the applicant. During the review process for first-time permit applications (excluding permit renewals), if there are more applications than permits (in the case of storefronts), priority will be given to applicants who:
1. have a marijuana establishment that has a history of lawful business within the town;
 2. have been a citizen of Northport for a minimum of two (2) years prior to their application; and

3. have submitted a complete application date and time stamped by the Town Office.

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.

VII. SUSPENSION OR REVOCATION

- A. The Select Board may, after notice and public hearing, suspend, revoke or refuse to renew a permit for a retail marijuana establishment for failing to comply with this Ordinance and M.R.S. Title 28-B, Section 104, Adult Use Marijuana.
- B. In suspending, revoking or refusing to renew a permit for a retail marijuana establishment, the Select Board may take into consideration:
 1. Number and 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.
 6. Repeated breaches of the quiet enjoyment of the use of neighboring properties, or quiet enjoyment of the public use of adjacent public lands or public rights of way.

VIII. REGULATIONS

- A. Types of Facilities: Each facility must be approved individually and shall be separately permitted. These facilities include those with the primary purpose of:
 1. Adult Use retail marijuana cultivation facility ;
 2. Adult Use retail marijuana store;
 3. Adult Use retail marijuana products manufacturing facility;
 4. Adult Use retail testing facility;
 5. Medical Use marijuana cultivation facility;
 6. Medical Use marijuana store;
 7. Medical Use marijuana products manufacturing facility; or
 8. Medical Use marijuana testing facility.
- B. A principal officer of a retail marijuana establishment shall not have been convicted of any State or Federal controlled substance law. The principal officer shall maintain an ongoing obligation and duty to report any ensuing drug convictions to the Town within two (2) working days of the conviction.
- C. Background history: Any applicant for a permit to operate any retail marijuana facility, including laboratories and growing facilities, must meet the minimum standards established by State law, shall fully disclose accurate information as requested as part of the application process.

- D. Required Notices: There shall be posted, in a conspicuous location inside each retail marijuana store, at least one legible sign containing the following information:
1. Use or allowing on-site consumption of marijuana 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 on the premises; and,
 5. Loitering is prohibited.

IX. RIGHT OF ACCESS

Every retail 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 M.R.S. Title 28-B, Section 104, Adult Use Marijuana.

X. INDEMNIFICATION

- A. By accepting a permit issued pursuant to this Ordinance, the permittee 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 retail marijuana establishment, including acts or omissions by its owners, operators, representatives, employees, clients or customers, which arise out of any violation of any local, state or federal law, rule or regulation.
- B. By accepting a permit issued pursuant to this Ordinance, all permits, 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, loss or damage, including without limitation, claims arising from bodily 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 retail marijuana establishment.

XI. STATE LAW

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, distribution or testing of retail marijuana or retail marijuana products, the additional or stricter regulations shall control the establishment or operation of any retail marijuana store, retail marijuana products manufacturing or retail marijuana testing facility in the Town. Compliance with any 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 permit issued hereunder.

XII. RETAIL SALES TAX OPTION

All retail 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 legislative body of the Town.

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 M.R.S. 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 Officer under this Ordinance to the Zoning Board of Appeals as a de novo review, within thirty (30) 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 Zoning 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 of the Zoning Board of Appeals shall be to Superior Court in compliance with Rule 80 B of the Maine Rules of Civil Procedure.

XVII. EFFECTIVE DATE

The effective date of this Ordinance shall be immediately after approval by the legislative body of the Town of Northport.

Approved: December 19, 2019