

Town of Perry, Maine
Recreational Marijuana Ordinance

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Adopted: 11-02-2021

TOWN OF PERRY

RECREATIONAL MARIJUANA ORDINANCE

I. PURPOSE AND AUTHORITY

- A. To regulate the location, licensing and operation of retail marijuana establishments authorized by Title 7 M.R.S.A., Chapter 417, Marijuana Legalization Act, within the Town. The Town also reserves the right for additional siting and licensing requirements pursuant to Municipal Home Rule Authority and Title 30-A M.R.S.A. Section 3001.
- B. To regulate the location, licensing, and operation of laboratories designed for the purpose of processing marijuana extracts to assure compliance with Federal and State ISO requirements.
- C. The licensing of retail marijuana social clubs in the Town is prohibited.

II. DEFINITIONS

- A. Retail Marijuana Establishments: For purposes of this ordinance, retail marijuana establishments, including retail marijuana store, retail marijuana cultivation facility, retail marijuana manufacturing facility, or retail marijuana testing facility and all other definitions relevant to this Ordinance are defined as set forth in Title 7, M.R.S.A., Section 2442 and as said section may be amended.
- B. Laboratory: Means any facility designed for the purpose of manufacturing products of marijuana concentrate and constructed in accordance with Federal, State and Local standards.
- C. License: Means a document issued by the Town officially authorizing an applicant to operate a retail marijuana establishment.
- D. Resident: Means an individual 21 years of age or older who has been domiciled in the State of Maine for a minimum of thirty (30) days and possesses or has made application for a motor vehicle operator's license or identification card issued by the State of Maine.
- E. Town: Means Town of Perry

III. BUILDING PERMIT APPLICATION

- A. Any marijuana facility shall petition the Planning Board for site and business approval. A petition for approval shall be submitted for initial approval, annual renewal, change of use, and any change of ownership.
- B. Certificate of occupancy
Each facility shall meet the minimum State standards. No Certificate of Occupancy shall be granted for any retail marijuana establishment within one thousand (1,000)

feet of the boundary of any public or private school, church, State park, Little League field or any other public park.

C. Municipal and State Codes

No Certificate of Occupancy shall be granted for any retail marijuana establishment unless the premises concerned is in complete compliance with all Municipal and State Codes and Regulations.

D. Signage

All signage shall meet the requirements of the State of Maine, and Town of Perry Ordinances and shall not be excessively attractive to children. Projected signage shall be submitted with each application to the Planning Board.

E. Security

1. Security requirements for retail marijuana establishments, excluding outdoor growing facilities, shall include:

- a. Lockable doors and windows to include intrusion alarms with audible and police notification components sending notification directly to or through a second party to Law Enforcement.
- b. Video surveillance capable of covering the exterior of the facility, interior and all plants cultivated within the facility. The video surveillance system shall be operated within the continuous recording twenty-four hours per day, seven days a week and such records of surveillance shall be retained for a minimum duration of thirty (30) days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.
- c. Exterior spot lights with motion sensors covering the full perimeter of the facility.

F. Ventilation

Any indoor operation of a marijuana facility shall meet the minimum State requirements for ventilation.

G. 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. Deliveries of marijuana or marijuana products is not permitted.

H. Hours of Operation

Hours of Operation for retail marijuana establishments shall not be earlier than 8am and no later than 8pm on any day.

IV. LICENSE APPLICATION

A person seeking a license or renewal of a license issued pursuant to this Ordinance shall submit an application to the Planning Board on approved forms provided by the Town.

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
4. A valid passport
- B. The Applicant shall have a 25% financial interest or more in the retail marijuana establishment. The Applicant shall provide the names of all other persons who have a financial interest in the retail marijuana establishment.
- D. The Applicant shall provide the following for all those who hold a financial interest in the establishment:
 1. Full name, address and date of birth
 2. Background check, including criminal history
 3. Proof of lawful residence (Applicant only) which may be made by providing two 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
 - e. A current invoice from a utility company
 4. The name and complete physical address of the proposed retail marijuana establishment.

V. LICENSE REQUIREMENT

Any person operating a retail marijuana establishment within the Town must obtain a license which shall be granted on the same criteria and regulations as set forth in Title 7 M.R.S.A., Chapter 417, including all regulations or amendments thereto.

- A. The Town license shall be granted contingent upon the applicant obtaining any required State license
- B. License classification
 1. Retail marijuana cultivation facility
 2. Retail marijuana store
 3. Retail marijuana products manufacturing
 4. Retail marijuana testing facility
- C. A maximum of (2) two licenses for each classification may be issued within the Town of Perry
- D. Licenses are valid for (1) one year
- E. Licenses shall be kept current at all times
- F. Applicant shall be at least (21) twenty-one years of age
- G. Applicant must be a resident of the State of Maine on the date of the application and for the four years immediately preceding the date of application
- H. License shall be posted in a conspicuous location at the retail marijuana establishment
- I. Licenses are not transferrable
- J. Upon receipt of an application for a new license or renewal, the Town shall schedule a public hearing on the application to be held not less than (45) forty-five days after the receipt of the completed application

K. Incomplete, false or misleading applications will not be processed

VI. LICENSE FEES (This section reserved pending implementation of State legislative guidelines)

VII. SUSPENSION OR REVOCATION

A. The Planning Board may, after notice and public hearing, suspend, revoke or refuse to renew a license for a retail marijuana establishment for failing to comply with this Ordinance and Title 7, M.R.S.A., Chapter 417

B. In suspending, revoking or refusing to renew a license for a retail marijuana establishment, the Planning Board may take into consideration:

1. Number and types of complaints law enforcement received and investigated
2. Failing to correct or abate any violation that the Code Enforcement Officer is authorized to enforce

VIII. REGULATIONS

A. Types of Facilities: Each facility must be approved individually and shall be separately sited. These facilities include those with the primary purpose of:

1. Retail sales
2. Commercial growing facility
3. Commercial marijuana manufacturing plant (to include processing for marijuana extracts)
4. Independent marijuana testing facility

B. No shareholder of a retail marijuana establishment shall have been convicted of any State or Federal felony. The principal officer shall maintain an ongoing obligation and duty to report any shareholder felony convictions to the Town within (2) two working days of the conviction.

C. Background history. Any applicant for a license to operate any retail marijuana facility, including laboratories and growing facilities, must meet the minimum standards established by State law and 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 of 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 (21) twenty-one allowed

5. Loitering prohibited

IX. RIGHT OF ACCESS

Every retail marijuana establishment will allow State or local 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 Title 7 M.R.S.A., Chapter 417.

X. INDEMNIFICATION

A. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of any retail marijuana establishment owners, operators, employees, clients or customers for a violation Federal, State or local law.

B. By accepting a license issued pursuant to this Ordinance, all licenses, jointly and severally if more than (1) one, 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 operation of a licensed 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 regulation 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 license under this Ordinance, and non-compliance with any applicable State law or regulation shall be grounds for revocation or suspension of any license 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

A. This Ordinance may be amended by the legislative body of the Town of Perry. Amendments may be initiated as follows:

1. Recommended by a majority vote of the Planning Board to the Board of Selectmen or;
2. By a majority vote of the Board of Selectmen or;
3. On petition of at least 10% of the number of votes cast in the last gubernatorial election in the Town of Perry.

B. A public hearing shall be held by the Board of Selectmen prior to the adoption of any amendment. Notice of the hearing shall be provided as established by Title 30-A M.S.R.A., Section 4352.9.

XIV. PENALTIES

This Ordinance shall be enforced by the municipal officers or their designee. Violations of this Ordinance shall be subject to the enforcement and penalty provisions of Title 30-A M.R.S.A. Section 4452. Any violation shall be submitted to the Town Code Enforcement Officer for review and subsequent submission to the Town 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 this Ordinance.

XVI. APPEALS

An aggrieved party may appeal any decision of the Code Enforcement Officer under this Ordinance to the Planning Board, within (30) thirty days of the date of the decision by the Code Enforcement Officer.

An aggrieved party may appeal any decision of the Planning Board under this Ordinance to the Board of Appeals, within (30) thirty days of the date of the decision by the Planning Board.

XVII. EFFECTIVE DATE

The effective date of this Ordinance shall be _____.