

**CITY OF EASTPORT**  
**RECREATIONAL MARIJUANA ORDINANCE**

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## **I. PURPOSE AND AUTHORITY**

1. 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 City. The City also reserves the right for additional siting and licensing requirements pursuant to Municipal Home Rule Authority and Title 30-A M.R.S.A. §3001.
2. The licensing of retail marijuana social clubs in the City is prohibited.
3. Marijuana use, distribution, cultivation and production can have an impact on health, safety, and community resources, and this ordinance is intended to permit marijuana cultivation, distribution, production, and testing where it will have a minimal impact and potential negative impacts are minimized.
4. Use, distribution cultivation, production, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "Level 1 Controlled Substance" by federal law.
5. Nothing in this ordinance is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
6. The operation of a marijuana business without a license from the City as provided in this ordinance is prohibited within the City.
7. Retail marijuana social clubs are expressly prohibited in the City of Eastport.

## **II. DEFINITIONS**

1. Retail Marijuana Establishment. For purposes of this ordinance, retail marijuana establishment, including retail marijuana store, retail marijuana cultivation 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.
2. Drug Free Safe Zone. Means all public athletic fields, public parks, school grounds, playgrounds, recreational facilities and cemeteries under the jurisdiction of the City and others that are designated as "Drug Free Safe Zones" in accordance with Title 17-A, M.R.S.A. Section 1101(23).
3. License. Means a document issued by the City officially authorizing an applicant to operate a retail marijuana establishment.
4. Loiter. Means to stand or wait around idly or without apparent purpose.
5. Resident. Means an individual 21 years of age or older who has been domiciled in this state 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.
6. City. Means City of Eastport.

## **III. Building Permit Application and Regulations**

1. Planning Board Review. Building permit applications for a retail marijuana establishment shall require review by the Eastport Planning Board and include a mandatory public hearing. Siting requirements shall also apply to any and all ancillary structures, mobile units, or any future types of dispensary

mechanisms as yet contemplated within this ordinance.

1. Commercial marijuana production or cultivation facilities shall be restricted to RR or Industrial Zones, as defined in the City of Eastport Zoning Ordinance, and shall not be located within 100 feet of a residential zoning district or within 500 feet of a residential use.

2. Retail, wholesale, and/or dispensaries shall be restricted to B1 or B2 Zones as defined in the City of Eastport Zoning Ordinance, and shall not be located within 100 feet of a residential zone, or within 500 feet of a residential use.

3. Retail Marijuana Establishments shall not operate as a home occupation.

4. No license for recreational marijuana establishment shall be issued located within 500 feet of any other marijuana business.

5. Distances shall be measured as a radius around the property lines of the applicant's property.

2. Certificate of Occupancy

No Certificate of Occupancy shall be granted for any retail marijuana establishment unless the structure providing the service is located in compliance with Subsection 1 above.

3. Municipal and State Codes.

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

4. Signage.

All signage shall meet the requirements of the Sign Ordinance and may not use any pictorial representations of any portion of a marijuana plant, products, by-products, or paraphernalia associated with the use or distribution of recreational retail marijuana.

5. Security.

Security requirements for retail marijuana establishment shall include:

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 Eastport Police Department or Washington County Regional Communications Center.
2. 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 with continuous recording twenty-four hours per day, seven days per 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.
3. Exterior spot lights with motion sensors covering the full perimeter of the facility.

6. No Sales except Directly to User; No Deliveries.

Except for sales to another licensed marijuana business, all sales of recreational marijuana shall be made in person in the restricted area of a recreational

marijuana establishment. All marijuana sales shall be made in person, directly to the purchaser. No marijuana sales shall be made via telephone, internet or other means of remote purchase. Deliveries of marijuana shall occur only in person to the purchaser at the time of purchase in the restricted area of a recreational marijuana establishment.

#### 6. Ventilation.

1. All retail marijuana establishments shall have an odor mitigation system installed that has been approved and stamped by a Maine licensed engineer indicating that the system will provide sufficient odor control measures to contain all odors associated with the marijuana is confined to the licensed premises to the extent practicable. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.

#### 7. Permanent Location.

Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be permitted to operate from a moveable., mobile or transitory location.

#### 8. Landlord Duty.

It shall be unlawful for the owner of a building to lease space or allow the use of any portion of a building or property by a recreational marijuana establishment unless the tenant has a valid recreational marijuana

business license or has applied for and not been denied a recreational marijuana business license or no marijuana is located on the premises until a license has been issued by the City. In the event the City has an articulable reason to believe that a recreational marijuana establishment is operating in a building, it shall be unlawful for the owner of the building or the tenant to refuse to allow the City access to the portion of the building in which the suspected recreational marijuana establishment is located to determine whether any marijuana is on the premises.

#### **IV. LICENSE APPLICATION**

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

- 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 or Nexus card.
- B. The applicant shall provide the following information for all persons having a 10% financial interest or more in the retail marijuana establishment.
1. Name, address, date of birth.
  2. Acknowledgment and consent that the City will conduct a background investigation, including a criminal history check.

3. Proof of lawful residence. Proof of lawful residence may be made by providing two of the following documents:
  - i. A valid State of Maine motor vehicle operator's license.
  - ii. A valid State of Maine motor vehicle registration certificate.
  - iii. A valid State of Maine fishing or hunting license.
  - iv. Voter registration.
  - v. 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 City 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.

Licensing for a retail marijuana establishment shall require review and approval by the Eastport City Council.

- A. The City license shall be granted contingent upon the applicant obtaining any required State license.
- B. License classification.



- i. Retail marijuana cultivation facility.
  - ii. Retail marijuana store.
  - iii. Retail marijuana products manufacturing.
  - iv. Retail marijuana testing facility.
- C. Licenses are valid for one (1) year.
- D. License shall be kept current at all times.
- E. Applicant must be at least twenty-one (21) years of age.
- F. Applicant must be a resident of the State of Maine
- G. License shall be posted in a conspicuous location at a retail marijuana establishment.
- H. Licenses are transferable as long as all state requirements are met.
- I. Upon receipt of an application for a new license or renewal, the City shall schedule a public hearing on the application to be held not less than forty-five (45) days after receipt of the completed application.
- J. Incomplete, false or misleading applications will not be processed.

## **VI. CONVERSION OF LICENSES TO DIFFERENT MARIJUANA BUSINESS**

A license for a retail marijuana facility may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open and operating on February 1, 2018, or that had submitted a complete application for a medical marijuana business on or before February 1, 2018, may be converted to the same type of recreational marijuana establishment by complying with the renewal requirements of this ordinance and paying the renewal application fee. Before the license for the retail marijuana establishment may issue, the medical

marijuana license must be surrendered to the City.

A licensee of a medical marijuana establishment may apply for a co-located marijuana business if allowed under state law. The application must include a modification of the existing medical marijuana establishment to conform with the requirements of this ordinance. Before the license for the co-located marijuana business may issue, the medical marijuana license must be surrendered to the City.

## **VII. LICENSE FEES**

### **A. Initial license fee:**

- i. Retail marijuana store \$500.00.
- ii. Retail marijuana product manufacturing \$500.00.
- iii. Retail marijuana cultivation facility \$500.00.
- iv. Retail marijuana testing facility \$500.00.

### **B. Renewal license fee:**

- i. Retail marijuana store \$500.00.
- ii. Retail marijuana manufacturing facility \$500.00.
- iii. Retail marijuana cultivation facility \$500.00.
- iv. Retail marijuana testing facility \$500.00.

C. License fees are non-refundable and due upon receipt of the completed application.

## **VIII. SUSPENSION OR REVOCATION**

A. The City Council 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 City Council 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.

## IX. REGULATIONS

A. A retail marijuana establishment may not employ a person who is convicted of any state or federal controlled substance law, or is under indictment or charged with any state or federal controlled substance law violation, while employed at the retail marijuana establishment. If a principal officer or board member is convicted of any state or federal controlled substance law while a principal officer or board member of a retail marijuana establishment that retail marijuana establishment shall immediately be considered in violation of this Ordinance.

### B. Background History.

1. Retail marijuana establishment applicants, their employees and all persons having a 10% financial interest or more in the business shall provide to the City a copy of any criminal history documents held by the State of Maine as part of their application process for the licensing of a retail marijuana establishment.
2. The State of Maine as part of their application process for the

licensing of a retail marijuana establishment. In the event the retail marijuana establishment applicant is unable to produce a copy or copies of the criminal history documents held by the State of Maine, the applicant, their employees and all persons having a 10% financial interest or more in the business shall submit to a criminal history background investigation conducted by the Eastport Police Department. The fee for the criminal history investigation shall be one-hundred (\$100) dollars per person.

C. No retail marijuana establishment shall operate a drive through, or drive up window.

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 car or operate machinery.
4. No one under the age of twenty-one (21) allowed.
5. Loitering Prohibited.

## **X. RIGHT OF ACCESS**

Every retail marijuana establishment shall allow law enforcement officers

to enter the premises at reasonable times for the purpose of investigating compliance with this Ordinance and Title 7 M.S.R.A. Chapter 417.

## **XI. INDEMNIFICATION**

- A. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the City, 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 of local, state or federal laws, rules or regulations.
- B. By accepting a license issued pursuant to this Ordinance, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the City, 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.

## **XII. 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 City. 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 noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

**XIII. RETAIL SALES TAX OPTION**

All retail marijuana establishments shall be subject to the maximum municipal sales tax authorized by the State statute as it shall be enacted or amended.

**XIV. AMENDMENTS**

This Ordinance may be amended by the City Council after proper notice and public hearing. Amendments shall take effect seven (7) days after approval by the City Council and remain in effect until further amended or repealed.

**XV. 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.

**XVI. SEVERABILITY**

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

**XVII. EFFECTIVE DATE**

For the purposes of licensing retail marijuana stores, retail marijuana testing facilities, retail marijuana cultivation facilities and retail marijuana manufacturing


facilities, this Ordinance becomes effective February 1, 2018.

Adopted by the Eastport City Council on December 13, 2017.

Approved:

  
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Gilbert Murphy

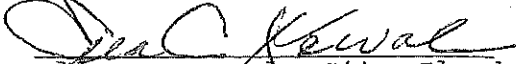
  
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A True Copy Attest:

  
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Ella C. Kowal, City Clerk  
12/14/2017