

**I. PURPOSE AND AUTHORITY**

1. To regulate the location, licensing and operation of retail marijuana establishments authorized by Title 22, Chapter 558-C. Maine Medical Use of Marijuana 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.S3001.
2. The Adult Use Marijuana Law legalizes marijuana for personal recreational use, and establishes a licensing process for commercial marijuana establishments cultivating, processing and selling adult use marijuana.
3. 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.
4. Nothing in this ordinance is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
5. The operation of a marijuana business without a license from the City as provided in this ordinance is prohibited within the City limits.
- 6.

**II. DEFINITIONS**

1. **Retail Marijuana Establishment:** For purposes of this ordinance, Marijuana Retail establishment includes medical retail marijuana store, caregiver retail store, medical retail marijuana cultivation facility and all other definitions relevant to this Ordinance are defined as set forth in Title 22, Chapter 558-C.and as said section may be amended.
2. **Adult Use Marijuana Establishment:** Use and commercial sale of marijuana for recreational (adult use) in accordance with the Adult Use Marijuana Law.
3. **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).
4. **License.** Means a document issued by the City officially authorizing an applicant to operate a retail marijuana establishment.
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. **Medical Marijuana Patient:** The MMUMA allows patients with a written certification from a medical provider to possess up to 8 pounds of marijuana for medical purposes, cultivate up to 6 marijuana plants for their own medical use, or give away up to 2 ½ ounces of marijuana to another qualifying patient (22 M.R.S. § 2423-A(1)). Qualifying patients may also visit registered caregivers or dispensaries to obtain up to 2 ½ ounces of medical marijuana per transaction.
7. **Caregivers.** assist qualifying patients with the use of medical marijuana, provided they are a resident of Maine, at least 21 years of age, and have not been convicted of a disqualifying drug offense. Caregivers may transfer up to 2 ½ ounces of harvested marijuana to a qualifying patient in one transaction, and are entitled to receive reasonable compensation

for their assistance (a caregiver may provide delivery services to his or her patients if necessary).

8. **Caregiver retail stores:** 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.
9. **Unregistered caregivers.** Generally, caregivers must be registered with the State in order to operate (22 M.R.S. § 2425-A)(2)). There is an exception for caregivers providing assistance to a member of that caregiver’s household or a family member. Such “unregistered” caregivers may only assist up to two family or household members, and may not sell marijuana plants wholesale, operate a retail store, or organize as a business entity (22 M.R.S. § 2423-A(3)(C-1)).
10. **Manufacturing Facilities.** Registered manufacturing facilities are authorized to manufacture marijuana products and marijuana concentrate from the harvested marijuana received from qualifying patients, caregivers, or dispensaries. The marijuana products manufactured *must be returned* to the qualifying patient, caregiver, or dispensary from which the facility received the harvested marijuana. Manufacturing facilities may receive reasonable compensation for such services, but a manufacturing facility may not engage in retail sales of marijuana products or concentrate unless otherwise authorized to engage in retail sales (i.e. if they are a vertically integrated registered dispensary or caregiver with both manufacturing and retail components).

There are three types of registration for medical marijuana products manufacturing:

  - **Tier 1 manufacturing facilities**, allowed to process up to 40 pounds of harvested marijuana;
  - **Tier 2 manufacturing facilities**, allowed to process up to 200 pounds of harvested marijuana; and
11. • **IHS manufacturing facilities**, or manufacturing through extraction using inherently hazardous substances (22 M.R.S. § 2423-F). An “inherently hazardous substance” (IHS) is defined as “a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether.” It does not include any form of alcohol or ethanol (22 M.R.S. § 2422(4-E)).**“Un-registered” Manufacturing:** Qualifying patients, caregivers, and dispensaries are all allowed to manufacture medical marijuana products from their own harvested marijuana, without obtaining a separate registration to engage in products manufacturing, as long as the manufacturing does not include production of marijuana food products or extraction using IHS. (22 M.R.S. §§ 2423-A(1)(J), 2423-A(2)(G), 2428(H), and 2428(I)). Otherwise, the patient, caregiver, or dispensary must comply with the IHS manufacturing facility registration or commercial kitchen licensing process under 22 M.R.S. § 2423-F or § 2167, respectively.
12. **City.** Means City of Eastport.

### III. BUILDING PERMIT APPLICATION AND REGULATIONS

1. **Planning Board Review.** Any permit applications for a Medical Marijuana Retail 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. Medical Marijuana Manufacturing Facilities or cultivation facilities shall be restricted to RR or Industrial Zones, as defined in the City of Eastport Zoning Ordinance.
2. Caregiver retail stores shall be restricted to B1 or B2 Zones as defined in the City of Eastport Zoning Ordinance.
3. No license for any type of marijuana establishment shall be issued located within 500 feet of any other marijuana business.
4. 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 in compliance with Subsection I 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. Ventilation.** 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.

**6. 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.

**7. 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 marijuana establishment unless the tenant has a valid recreational marijuana business license or has applied for and not been denied a 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 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.

**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 22, Chapter 558-C., 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. 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.
- I. Incomplete, false or misleading applications will not be processed.

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

A license for a medical marijuana business may not be converted to a license for an adult use marijuana establishment. .

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**

- 1. **The City**, in accordance with the provisions of this section, shall adopt by rule a licensing fee schedule establishing fees that are designed to meet, but not to exceed, the estimated licensing, enforcement and administrative costs of the City under this chapter.
- 2. License fees are non-refundable and due upon receipt of the completed application.
- 3. Fees for cultivation facilities. For a cultivation facility license, the City shall require payment of an application fee and a license fee as follows:
  - **Tier 1 cultivation facility license**, as described in [section 301](#), subsection 1, an application fee of \$100 and a license fee as follows:
    - (1) If the applicant has applied for a plant-count-based tier 1 cultivation facility license as described in [section 301, subsection 1, paragraph A](#), a license fee of not more than \$9 per mature marijuana plant for an outdoor cultivation facility and not more than \$17 per mature marijuana

plant for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; or

(2) If the applicant has applied for a plant-canopy-based tier 1 cultivation facility license as described in [section 301, subsection 1, paragraph B](#), a license fee of not more than \$250 for an outdoor cultivation facility and not more than \$500 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.

- **Tier 2 cultivation facility license**, as described in [section 301, subsection 2](#), an application fee of \$500 and a license fee of not more than \$1,500 for an outdoor cultivation facility and not more than \$3,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.
- **Tier 3 cultivation facility license**, as described in [section 301, subsection 3](#), an application fee of \$500 and a license fee of not more than \$5,000 for an outdoor cultivation facility and not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.
- **Tier 4 cultivation facility license**, as described in [section 301, subsection 4](#), an application fee of \$500 and a license fee of not more than \$15,000 for an outdoor cultivation facility and not more than \$30,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas, except that, for a tier 4 cultivation facility license for which an increased amount of licensed plant canopy has been approved by the department pursuant to [section 304](#), for each approved increase in the amount of licensed plant canopy, the department may increase the maximum license fee by not more than \$5,000 for an outdoor cultivation facility and by not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; and
- **Nursery cultivation facility license**, as described in [section 301, subsection 5](#), an application fee of \$60 and a license fee of \$350.
- **Caregivers cultivation facility license**: Caregivers who are registered with the State may cultivate up to 30 mature marijuana plants or 500 square feet of plant canopy and possess and distribute all the harvested marijuana produced by those plants to qualifying patients, manufacture marijuana products for their patients, sell or buy marijuana plants or harvested marijuana wholesale to or from other caregivers or dispensaries, organize as a business entity, and operate a retail store (22 M.R.S. § 2423-A(2)).

**2. Fees for manufacturing facilities and caregiver retail stores.** For a manufacturing facility license or a caregiver retail store, the City shall require payment of an application fee of \$250 and a license fee of not more than \$2,500.

**3. Fees for testing facilities.** For a testing facility license, the department shall require payment of an application fee of \$250 and a license fee of not more than \$1,000.

**3-A. Fees for sample collectors.** For a sample collector license, the department shall require payment of an application fee of \$100 and a license fee of not more than \$250.

## 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 22, Chapter 558-C
- 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. RIGHT OF ACCESS**

**X.** Every retail marijuana establishment shall allow law enforcement officers and Code Enforcement Office to enter the premises at reasonable times for the purpose of investigating compliance with this Ordinance and Title 22, Chapter 558-C. **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.

**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 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.

**XII. 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.

**XIII. 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.

**XIV. 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.

**XV. EFFECTIVE DATE**

For the purposes of licensing medical and adult use marijuana stores, medical marijuana testing facilities, medical marijuana cultivation facilities and medicalmarijuana manufacturing facilities, this Ordinance becomes effective ADD DATE ONCE PASSED.