

**Registered Nonprofit Dispensaries and Registered Cultivation Facilities for Medical Marijuana: To be added to General Requirements for Land Use**

**Fourth Draft 5-18-10**

Add the wording below to General Requirements for Land Use; 13-700

Add as line item on Land Use Chart for zones permitting pg. 778

**13-700 General Requirements for Land Uses**

**#39.**

**A. Purpose and Authority**

To regulate the location of Registered Medical Marijuana Dispensaries within the City of Caribou:

Pursuant to Title 22 MRSA Chapter 558 C and §2428 (10), Maine law provides for the siting of Medical Marijuana Dispensaries as permitted by the Department of Health and Human Services. The City of Caribou also reserves the right for additional siting and licensing requirements pursuant to municipal home rule authority, Title 30-A MRSA §3001.

Where as marijuana has been determined to have both legitimate medical uses as well as a history of widespread illegal use, this Ordinance shall serve to govern the siting and licensing requirements specific to the City of Caribou for the operation of a Registered Medical Marijuana Dispensary.

**Add the following definitions to: Definitions 13-900**

**B. Definitions**

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

Cardholder: "Cardholder" means a qualifying patient, a primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary who has been issued and possesses a valid registry identification card.

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 City and further defined under Section 13-900 (2).

Drug Free Safe Zones: "Drug Free Safe Zones" in Caribou Code Section 8-105 are all public athletic fields, parks, playgrounds and recreation facilities under the jurisdiction of the City of Caribou shall be designated as Drug-Free Safe Zones in accordance with the State of Maine Title

17-A §1101(23). Any subject apprehended dealing drugs within 1,000 feet of any designated Drug Free Safe Zone shall be subject to enhance penalties (17-A MRSA Chapter 45).

Enclosed, Locked Facility: "Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks and other security devices required by the State and this Ordinance that permits access only by a cardholder or qualified person employed by the Registered Nonprofit Dispensary.

House for Public Worship: "House for 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).

Medical use: "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Nonprofit Dispensary: "Nonprofit dispensary" means a not-for-profit entity registered under Title 22 MRSA §2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit dispensary is a primary caregiver.

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

Registered Nonprofit Dispensary: "Registered Nonprofit Dispensary" means a nonprofit dispensary that is registered by the department pursuant to Title 22 MRSA §2428, subsection 2, paragraph A.

Safe Children Zone: means on or within 1,000 feet of the real property comprising a public or private elementary or secondary school or on or within 1,000 feet of the real property comprising a day care center licensed pursuant to Title 22, section 8301-A.

Usable Marijuana: "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but does not include the seeds, stalks and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.

### **C. Regulations:**

1. The establishment of a Registered Nonprofit Dispensary shall require review by the Caribou Planning Board as per Section 13-300 "Site Design Review" of the Caribou Code. Section 13-302 (B) shall require a mandatory public hearing as part of the Site Design Review.
2. No Certificate of Occupancy shall be granted for a Registered Nonprofit Dispensary unless the structure providing the service is located in the H-1, C-1, C-2, I-1, I-2 or RC-2 Zones.
3. No Registered Nonprofit Dispensary shall be allowed in the R-1, R-2 or R-3 Residential Zones or within 300 feet of an existing residential dwelling or within 300 feet of the R-1, R-2 or R-3 Residential Zone Boundary Line.
4. No Certificate of Occupancy shall be granted for a Registered Nonprofit Dispensary if the premise concerned is located within the Drug Free Safe Zone, or 500 feet of a preexisting Private School, Day Care Facility, or House of Public Worship.
5. No Certificate of Occupancy shall be granted for a Registered Cultivation Facility unless the structure is located within a Registered Nonprofit Dispensary or is offsite from the Dispensary within the R-3 Zone and also meeting all setback requirements applicable to Registered Nonprofit Dispensaries.
6. No Certificate of Occupancy shall be granted for a Registered Nonprofit Dispensary unless the premise concerned is in complete compliance with all municipal, state and federal Codes and Regulations.
7. Security requirements for both the Registered Nonprofit Dispensary and associated Registered Cultivation Facilities shall include as a minimum:
  - 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 the Caribou Police Department.
  - b. Exterior security lighting comprised of spot lights with motion sensors covering the full perimeter of the facility.
  - c. Video surveillance capable of covering the entire perimeter of the facility, interior, and all plants part of 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 90 days
8. A Registered Nonprofit Dispensary and Registered Cultivation Facility may not continue to employ an employee who is convicted of any state or federal controlled substance law while employed at the Registered Nonprofit Dispensary and or Registered Cultivation Facility. 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 Registered Nonprofit Dispensary or Registered Cultivation Facility, that Registered Nonprofit

Dispensary or Registered Cultivation Facility shall immediately be considered in violation of this Chapter.

9. Medical Marijuana Disbursing Facilities must provide an adequate interior waiting area to ensure no exterior waiting of clients.
10. Medical Marijuana Disbursing Facilities must provide adequate off street parking on site at 1 parking space per every 150 square feet of interior space. Each parking space shall be a minimum of 9 feet wide by 21 feet long.
11. All signage shall meet the requirements of Section 13-700, #29, A through H 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 legalized medical marijuana or illegal use of marijuana.

### **Add to Chapter 7 License and Permits:**

## **Article XII Registered Nonprofit Dispensaries and Registered Cultivation Facilities**

### **Section 1101 Purpose**

The purpose of the Article is to control the issuance of a permit to operate either a Registered Nonprofit Dispensary or Registered Cultivation Facility as may be permitted by the State of Maine and the Caribou Planning Board.

### **Section 1102 Permit Required**

1. *Operation of a Registered Nonprofit Dispensary or Registered Cultivation Facility:* No Permit may be issued unless the facility is permitted by the State of Maine Department of Health and Human Services and the Caribou Planning Board and will be eligible for a Certificate of Occupancy. No facility shall conduct business within the limits of Caribou without first securing a permit from the Municipal Officers of the City of Caribou.
2. *Applications for permit:* Applications for a permit shall be made in writing to the Municipal Officers through the City Clerk's Office and shall state:
  - a. The name of the Nonprofit
  - b. Location and type of Facility
  - c. State License Number
  - d. Copy of complete State of Maine DHHS Application

3. *Compliance with all laws:* No permit shall be issued unless the Applicant can prove full compliance with all applicable State and Local Ordinances pertaining to the type, operation, and location of the facility to be permitted.
4. *Fee:* A fee of \$500 per location of either a Registered Nonprofit Dispensary or Registered Cultivation Facility shall apply to provide for the cost of advertising, notices to abutters, compliancy checks, and use of administrative time to process.
5. *Public Hearing:* The Municipal Officers shall, prior to granting any permit new or annual renewal, provide for not less than 7 days notice of a public hearing, within 30 days upon the receipt of the 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:* The Municipal Officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would otherwise violate municipal ordinances or state law.
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 shall be inspected by Code Enforcement, Fire Chief and Police Chief to insure that the dispensary is in compliance for Zoning, Fire Safety and Security requirements.

### **Section 1103 Suspension of Revocation of a Permit**

The Municipal Officers 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 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.

### **Section 1104 Rules and Regulations**

The Municipal Officers are 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, the hours during which the permitted activities are permitted, or other operational considerations that would otherwise impact the public's wellbeing.

### **Section 1105 Permit and Appeal Procedures**

1. *Notice of decision.* Any Licensee requesting either a Registered Nonprofit Dispensaries or Registered Cultivation Facilities permit from the Municipal Officers shall be

notified in writing of their decision no later than fifteen (15) days from the date the request was received by the City 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 which has been denied.

2. *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.

### **Section 1106 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 One Twenty-five Hundred Dollars (\$2,500) for subsequent offenses, to be recovered, on complaint, to the use of the City of Caribou. 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. (SKW, 5-19-'10)

### **Section 1107 Separability**

The invalidity of any provision of this Article shall not invalidate any other part.

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**Historical Note:** Originally effective on June \_\_, 2010

## **ARTICLE IV ~~FALSE BANK AND BURGLAR~~ SECURITY ALARMS**

The following fees shall be charged for response to false alarms for any business, private residence, commercial, or public facility whose alarm systems are connected directly, by second party notification, or automated systems to the Caribou Police Department for response. If, upon responding, the Caribou Police Department determines the alarm was a false alarm, then the fees shall apply. Alarm systems may be tested with prior notification to the Police Department without cause for charge.

False Alarms (per Year)

<u>3</u>	<u>No Charge</u>
<u>After 3</u>	<u>\$25.00 each</u>

The following fees shall be charged for any business, private residence, or other facility connected directly to the Caribou Police Department, to a private security system, or to an automatic telephone dialing system that calls the Caribou Police Department.

<del>False Alarms</del>	<del>Charge</del>
<del>(per month)</del>	<del>Charge</del>
<del>1</del>	<del>No charge</del>
<del>2-10</del>	<del>\$10.00 each</del>
<del>Over 10</del>	<del>\$15.00 each</del>

**Historical Note:** adopted May 8, 1989; Amended June \_\_, 2010