

Ordinance Number Assigned: **2022-400**

CITY OF CALAIS

MEDICAL MARIJUANA BUSINESS ORDINANCE

I. AUTHORITY

To regulate the location, licensing, and operation of Medical Marijuana Businesses, as authorized by Maine's Medical Marijuana laws and regulations, including but not limited to Title 22 MRS. §2421 *et seq.* as amended, within the City of Calais. The City also reserves the right for additional siting and licensing requirements pursuant to Municipal Home Rule Authority (Title 30-A M.R.S. § 3001).

II. PURPOSE

Persons or entities wishing to establish a Medical Marijuana Business within the City of Calais shall first obtain a License from the City Council (hereinafter "the Municipal Officers") and shall be subject to the provisions of this Ordinance.

III. CONFLICT WITH OTHER ORDINANCES; SEVERABILITY

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other federal, state, or local ordinance, regulation or standard, the more restrictive provision shall apply.

IV. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of adoption by the City Council.

V. VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

VI. DEFINITIONS

As used in this Ordinance, the terms below shall be defined as indicated. All other terms used in this Ordinance, if not defined below, shall have the same definition set forth in 22 M.R.S. §2422, as amended.

- A. **Applicant:** a natural person or business entity that submits an application for a License under this Ordinance for review that the City has not yet approved or denied.
- B. **City Officials:** the City Manager and/or the City Code Enforcement Officer.
- C. **License:** a document issued by the City officially authorizing an Applicant to operate a Medical Marijuana Business.
- D. **Licensee:** a natural person or business entity licensed pursuant to this Ordinance to operate a Medical Marijuana Business.

- E. **Loitering:** to stand or wait around idly or without apparent purpose.
- F. **Medical Marijuana Business:** a Registered Caregiver, Caregiver Retail Store, Registered Dispensary, Medical Marijuana Testing Facility, or Medical Marijuana Manufacturing Facility.

VII. LICENSE APPLICATION

No person may establish, operate, or maintain a Medical Marijuana Business without first obtaining a License from the Municipal Officers.

- A. An application for a License shall be submitted to the City Officials for site and business approval specifying the category of the business for which the applicant is filing. An application shall be submitted for initial approval, annual renewal, and change of use.
- B. Before final approval is given on any License, the Applicant must present their caregiver registration from the State of Maine and any state license or approval if required by the state.
- C. Only a total of three (3) Caregiver Retail Stores, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facility shall be allowed to operate at one time in Calais. Registered Dispensaries are not permitted to operate in Calais. Whenever a License expires for one of the three permitted operating Caregiver Retail Stores, Medical Marijuana Testing Facilities, or Medical Marijuana Manufacturing Facilities and is not renewed, or the Municipal Officers do not renew a License for just cause, other applications may be reviewed, but the cap of three total Licenses shall be maintained for such businesses. All "grandfathered" Caregiver Retail Stores as described in 22 M.R.S. §2429-D(2) operating in Calais as of the effective date of this Ordinance, upon closure of the business and/or ceasing operations, have until the renewal date of the current year to resume business operations and renew their License. Failure to do so constitutes a lapse of the grandfathered use and loss of their License.
- D. Applicants for a License within each separate category cannot be related, be domiciled together, or be owned by the same entity or ownership interest.
- E. Each Medical Marijuana Business shall, at the least, meet the minimum state standards in effect for their category of business at the time of the initial and each renewal application.
- F. Caregiver Retail Stores, Medical Marijuana Testing Facilities, or Medical Marijuana Manufacturing Facilities can only be located in R-4, C-1, C-2, C-3, I-1, I-2, and I-3 zones as defined by the City of Calais Land Use Codes and identified on the City of Calais Zoning and Shoreland Zoning Map.
- G. No Caregiver Retail Store, Medical Marijuana Testing Facility, or Medical Marijuana Manufacturing Facility shall be located within 1,000 feet of a property line of Schools, Daycares, Places of Worship, City Playgrounds and Parks including the City Recreation Center.
- H. Caregiver Retail Stores can only be open to the public between the hours of 7 am and 10 pm Monday through Sunday.
- I. No Loitering is allowed anywhere on the property of a Medical Marijuana Business.

- J. Registered Caregiver activities, in addition to Caregiver Retail Stores, Medical Marijuana Manufacturing, and Medical Marijuana Testing activities, are only allowed to be conducted indoors. All activities must be in an enclosed building with, at the least, meeting the minimum state required regulations in effect at the time of the initial and each renewal application.
- K. All new principal and accessory structures for Medical Marijuana Businesses, and expansions of existing structures, must comply with the following minimum set back requirements from the side and rear property lines:
1. Registered Caregiver and Caregiver Retail Stores: twenty-five (25) feet
 2. Medical Marijuana Testing Facilities: fifty (50) feet
 3. Medical Marijuana Manufacturing Facilities: one hundred (100) feet
- L. All Medical Marijuana Business premises shall be in complete compliance with all City and State Codes and Regulations.
- M. Signage: All signage shall meet the requirements of the State of Maine and shall conform to the City signage ordinance and shall not be excessively attractive to children. Only one (1) free standing outside sign and one (1) sign on the exterior of the building are allowed for a Medical Marijuana Business, excluding Registered Caregivers. Each sign cannot be more than 15 square feet in size. No exterior/outside electronic or digital signs are allowed. Proposed signage shall be submitted with the application to the City Officials and is subject to approval. There shall also be posted in a conspicuous location inside each Medical Marijuana Business at least one legible sign containing the following information:
- "The on-site consumption of marijuana is illegal; Open and public consumption of marijuana in the State of Maine is illegal; The use of marijuana or marijuana products may impair a person's ability to drive a car, operate machinery, or use a firearm; No one under the age of twenty-one (21) allowed, except a minor with a Medical Marijuana Card; Loitering prohibited"*.
- N. All Medical Marijuana Businesses shall meet all State statutes and regulations regarding security, safety, and odor control.
- O. Caregiver Retail Stores shall be operated from a permanent location. No Caregiver Retail Store shall be permitted to operate from a movable, mobile, or transitory location. They may utilize telephone and internet orders as long as the buyer, on the day the order is made, pays for and picks up such orders in the store. Caregiver Retail Stores may not use vending machines for sales, may not have "drive-through" or "drive-up" window-serviced sales, and may not have internet-based sales with credit/debit card payment and delivery by USPS, UPS, Fed Ex, DHL, or any other global or local delivery service or courier.
- P. Applicants must provide sufficient documentation demonstrating right, title, and interest to the proposed licensed premises of the Medical Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement, deed, or other arrangement for possession and use of the premises.

VIII. APPLICATION AND LICENSE FEES

- A. All applicants for a Medical Marijuana Business License shall file a City of Calais Marijuana Business Application Form in person to the City.
- B. All applications must be accompanied by a site plan showing the configuration of the subject premises, including building footprint, interior layout with floor space to be occupied by the business, and parking plan. The site plan must be drawn to scale with marked dimensions.
- C. All applications for a Medical Marijuana Business License must be accompanied by a copy of the City Tax Map depicting: the subject property lines and the property lines of other properties containing any other existing Medical Marijuana Businesses abutting the subject property; and the property lines of any protected location identified in Section VII(G) of this Ordinance. Distance is measured from property line to property line.
- D. All applications must be accompanied by description of the Medical Marijuana Businesses' Security, Safety, and Odor Control plans.
- E. A separate application form and fee are required for each type of Medical Marijuana Business the applicant is requesting approval.
- F. All applications must be submitted with a \$250 nonrefundable initial application fee.
- G. The applicant is responsible for all costs associated with holding a public hearing on their application and must pay those fees prior to holding that public hearing.
- H. If an application is approved, the following license fees must be paid before the City will issue a License.
 - 1. Registered Caregiver Annual License Fee: \$ 250
 - 2. Caregiver Retail Store Annual License Fee: \$1,250
 - 3. Medical Marijuana Manufacturing Facility Annual License Fee: \$1,250
 - 4. Marijuana Testing Facility: Annual License Fee: \$ 500
- I. Each License is valid for one (1) year from date of issue. License fees must be paid annually.
- J. The Municipal Officers have the authority to revise these fees at any time by adopting or amending an addendum to this Ordinance.

IX. ISSUANCE RULES

- A. Applications will be reviewed in the order the completed applications are received. An application shall be considered complete when it contains the information and/or other items required on the application, accompanied by the nonrefundable initial application fee. Once a total of three (3) Caregiver Retail Stores, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facility are licensed to operate in Calais, no more applications will be approved until one of the three operating businesses fails to renew its License or the Municipal Officers do not renew a License for just cause.
- B. The Municipal Officers shall have the authority to impose any conditions on a License that may be necessary to ensure compliance with the requirements of this Ordinance or to address

concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the License.

- C. No License shall be granted by the Municipal Officers until the fire chief, code enforcement officer, and local health officer have made their recommendation upon the Applicant's ability to comply with this Ordinance. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the City authorized to make the inspection at any reasonable time that admission is requested.
- D. Upon the filing of a completed application and successfully passing the required inspection, the Municipal Officers shall schedule a public hearing on the application to occur within 30 days. The Municipal Officials shall provide written notice of the public hearing to the applicant within seven days of the filing of a completed application.
- E. At the public hearing on the application, the Municipal Officers shall take testimony of the Applicant and any interested members of the public. The hearing shall focus upon the criteria for issuance of a License.
- F. The Municipal Officers shall issue to the Applicant written notice of its decision to grant or deny the License. If the Municipal Officers deny the License, the written notice shall set forth their reasons for the denial. The Municipal Officers shall grant a License unless it finds that the issuance of the License would be detrimental to public health, safety or welfare, as demonstrated by the following criteria:
 - 1. An Applicant is less than 21 years of age.
 - 2. An Applicant has failed to provide information required by this Ordinance for issuance of a license or has falsely answered a question or request for information on the application form.
 - 3. The establishment is in a location where a Medical Marijuana Business is not permitted.
 - 4. The number of establishments for the specific category has already been met.
 - 5. The requirements in Section VII of this ordinance have not all been met.
 - 6. Any establishment in which an Applicant has had an ownership interest, that has in the previous five years and at a time during which the applicant had the ownership interest:
 - a. Been declared by a court of law to be a nuisance; or been subject to an order of closure.
 - b. Been convicted of or pled guilty or nolo contendere to a specified criminal activity.
 - 7. A Licensee or member, manager, director, officer of a Licensee who has had a license for a medical marijuana establishment revoked by the City or by the state.
 - 8. An Applicant who has not acquired all necessary state approvals and licenses and other required local approvals prior to the issuance of a License.
- G. The City may suspend or revoke a License for any violation of this Ordinance or any other applicable building and life safety code requirements.

- H. The City may suspend or revoke a License if the Licensee has a state license for any adult use marijuana establishment and/or medical marijuana establishment suspended or revoked by the state.
- I. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation.
- J. The License, if granted, shall state on its face the name of the person, persons or entity to whom it is granted, the number of the License issued to the Licensee(s), the expiration date, and the address of the business. The License shall be posted in a conspicuous place at or near the entrance to the business so that it may be read at any time that the business is occupied by patrons or is open to the public.
- K. Every Licensee shall submit emergency contact information to the City Officials who will share it with other appropriate local, federal, and/or state agencies.
- L. A license renewal application shall be subject to the same review standards as applied to the initial issuance of the License and the same notice requirement as a new application. The renewal application must be received by the City Officials at least 15 days prior to the expiration date the current License. As part of the renewal process, the Municipal Officers shall consider compliance from prior years, and based upon that review, may add conditions to any future License to correct, abate or limit past problems.
- M. Licenses issued under this Ordinance are nontransferable to different Licensees.
- N. Any appeal of a decision of the Municipal Officials pursuant to this Ordinance shall be to the Maine Superior Court in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

X. RIGHT OF ACCESS/BACKGROUND CHECKS/INSPECTION

Every Medical Marijuana business shall allow municipal officers, fire chief or his appointed inspector, State Fire Marshall official, code enforcement, local health officer, and law enforcement officers to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance.

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 Medical Marijuana Business Licensees, 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, the Licensee agrees 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 Medical Marijuana Business.

XII. STATE LAW

- A. In the event the State of Maine adopts any additional or stricter law or regulation governing Medical Marijuana, the additional or stricter regulation shall control the establishment or operation of any Medical Marijuana Business in the City of Calais.
- B. Compliance with 22 M.R.S. §2421 *et seq.* and any other applicable State laws or regulations shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with 22 M.R.S. §2421 *et seq.* and any other applicable State law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

XIII. ENFORCEMENT

- A. Violations
 - 1. Any violation of this Ordinance, including failure to comply with any condition, shall be enforced pursuant to this Ordinance and 30-A M.R.S. §4452.
 - 2. Each day of a violation constitutes a separate offense,
 - 3. Operating any Medical Marijuana Business without a City License shall be a violation of this Ordinance.
 - 4. Any party committing a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the City Officials. Upon such notification, the City can pursue enforcement, injunctive relief, fines, and/or penalties under 30-A M.R.S. §4452 and report it to the proper authorities.
- B. Code Enforcement Officer (CEO)
 - 1. If the CEO finds that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including but not limited to, discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the Municipal Officers and the City Officials to be maintained as a permanent record.
 - 2. The City Officials shall keep a complete record of all essential transactions, including applications submitted, licenses granted or denied, revocation actions, revocation of licenses, appeals, court actions, violations investigated, violations found, and fees collected.
- C. Law Enforcement Officers

Law enforcement officers may at any reasonable time conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to License approvals and shall investigate all complaints of alleged violations of the Ordinance.
- D. Legal Actions

When the above notification and/or inspection action(s) do not result in the voluntary correction or abatement of the violation by the subject Medical Marijuana Business or person, the City Officials shall institute any and all actions and proceedings, either legal or equitable,

including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance. The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.

E. Penalties/Fine

Any person, including but not limited to, a Medical Marijuana Business owner, property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this Ordinance, or fails to comply with any of its requirements, shall be penalized in accordance with 30-A M.R.S. §4452.

XIV. AMENDMENTS

This Ordinance may be amended at any time after a public hearing and a majority vote at a City Council Meeting on the proposed amendment.

Adopted: 4/14/2022

Amended:

Repealed: