

CITY OF SANFORD
ORDINANCE ~~ESTABLISHING~~ ~~REPEALING~~ A MORATORIUM ON
MEDICAL MARIJUANA PRODUCTION FACILITIES
AND REGISTERED CAREGIVER RETAIL STORES

~~WHEREAS, the Maine Medical Use of Marijuana Act, codified at 22 M.R.S. Chapter 558-C, authorized primary caregivers to possess and cultivate marijuana for qualifying patients and to receive monetary compensation for costs associated with assisting qualifying patients; and~~

~~WHEREAS, the Legislature enacted *An Act to Amend the Maine Medical Use of Marijuana Act*, PL 2017, c. 447 (LD 238) on an emergency basis and *An Act to Amend Maine’s Medical Marijuana Law*, PL 2017, c. 452 (LD 1539) (“the Act”), on July 9, 2018; and~~

~~WHEREAS, both new laws specifically give municipalities the authority to regulate registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities; and~~

~~WHEREAS, the Act authorizes caregivers to operate one retail store to sell harvested marijuana to qualifying patients for the patients' medical use; and~~

~~WHEREAS, the Act prohibits municipalities from authorizing new registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities after the effective date of the Act unless the legislative body has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities; and~~

~~WHEREAS, the Act specifically authorizes the continued operation of registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval prior to effective date of the Act; and~~

~~WHEREAS, the Act will become effective on December 13, 2018; and~~

~~WHEREAS, the City of Sanford’s (“the City”) ordinances currently permits and regulates medical marijuana production facilities but does not regulate registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities ; and~~

~~WHEREAS, registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, and the increasing number of licensed medical marijuana production facilities give raise a number of concerns related to public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, security of the facilities, use of industrialized solvents and gases, and odors that may create a public nuisance or hazard; and~~

~~WHEREAS, there has been an increasing number of requests regarding the establishment of registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, and medical marijuana production facilities, highlighting the concerns related to public safety and welfare; and~~

~~WHEREAS, the City's existing ordinances do not provide an adequate mechanism to regulate and control the location, proliferation, and operation of medical marijuana production facilities and registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, and are inadequate to prevent serious public harm that could be caused by the unregulated development of registered caregiver retail stores registered dispensaries, marijuana testing facilities or manufacturing facilities, ; and~~

~~WHEREAS, the City needs a reasonable amount of time to determine the implications of registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, and to develop reasonable regulations governing their location and operation and to determine the implications on the number of medical marijuana production facilities operating or proposed to be operating in the City; and~~

~~WHEREAS, during the period of this Moratorium, the City will work on developing appropriate land use regulations concerning registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, and work on amending the land use and licensing regulations concerning the number and location of medical marijuana production facilities;~~

~~—————NOW THEREFORE, pursuant to the authority granted to it by 30 A.M.R.S. § 4356, be it hereby ordained by the legislative body of the City of Sanford as follows:~~

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings as defined in the Marijuana Legalization Act:

“Medical Marijuana”: means marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

“Medical Marijuana Production Facility”: means a facility used for cultivation, processing, storage, and/or distribution of medical marijuana at a location which is not the medical marijuana registered primary caregiver's primary residence.

“Registered Caregiver Retail Store”: a facility or location in which a registered medical marijuana caregiver sells harvested marijuana to qualifying patients for the patients' medical use through a storefront.

“Registered Dispensary”: means an entity registered under 22 MRSA Section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

“Marijuana Testing Facility”: means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction pursuant to 22 MRSA Section 2423-F sub 8

“Marijuana Manufacturing Facility”: means a registered tier 1 or tier 2 manufacturing facility or a person or entity authorized to engage in marijuana extraction under 22 MRSA Section 2423-F

2. APPLICABILITY AND PURPOSE.

This moratorium shall apply to medical marijuana production facilities that do not already have a building permit, site plan approval, or is located in a building that currently containing a licensed medical marijuana production facility pursuant to Chapter 149 of the City's Ordinances, and also to registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, as defined above, that are proposed to be located within the City on or after October 2, 2018.

Notwithstanding anything to the contrary in 1 M.R.S. § 302 or any other law, this Ordinance applies retroactively to any application for approval, including but not limited to a building permit, business license, certificate of occupancy, site plan review, conditional use, or any other approval the establishment or operation of a proposed medical marijuana production facility or a registered caregiver retail store, registered dispensaries, marijuana testing facilities or manufacturing facilities, whether or not such application had become a “pending proceeding” as defined in 1 M.R.S. § 302 prior to the enactment

~~of this Ordinance. Properties that are currently permitted as commercial, industrial, processing, manufacturing, general retail operations or other similar use shall not be permitted to operate as a medical marijuana production facility or registered caregiver retail store, registered dispensaries, marijuana testing facilities or manufacturing facilities, and shall only be permitted by the City in accordance with future land-use regulations concerning registered medical marijuana production facilities and registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities.~~

~~**3. PROHIBITION.**~~

~~During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the City of shall accept, process or act upon any application for any approval, including but not limited to a building permit, business license, certificate of occupancy, site plan review, conditional use, or any other approval relating to the establishment or operation of a business or operation of a medical marijuana production facility or registered caregiver retail store, registered dispensaries, marijuana testing facilities or manufacturing facilities.~~

~~No person shall establish or operate a new business or operation of a medical marijuana production facility or registered caregiver retail, registered dispensaries, marijuana testing facilities or manufacturing facilities, store within the City without complying with whatever ordinance amendments the City may enact as a result of this Ordinance. This prohibition does not apply to activities of registered medical marijuana caregivers that occur within a caregiver's residence or the residence of a qualifying patient.~~

~~**4. ENFORCEMENT, VIOLATION AND PENALTIES.**~~

~~This Ordinance shall be enforced by the City's Code Enforcement Officer. Any person who violates Section 3 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S. § 4452.~~

~~**5. EFFECTIVE DATE.**~~

~~This Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless earlier extended by the City Council.~~

~~**6. SEVERABILITY.**~~

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