

ORDINANCE #4-2020

PROVIDING FOR: An Adoption of Chapter 39 of the Code of the Town of Millinocket concerning Marijuana.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET that the attached Marijuana Ordinance is hereby adopted as Chapter 39 of the Millinocket Code.

IT IS FURTHER ORDAINED that the Town Clerk make appropriate changes to incorporate this chapter into the Millinocket Code and distribute new pages to all persons known to have a copy of the Code.

First Reading: _____

Second Reading: _____

Effective Date: _____

ATTESTED: _____

Chapter 39

Marijuana

Article 1

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- § 39-1-2 Definitions
- § 39-1-3 Prohibition on Retail Marijuana Establishments
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Town of Millinocket
Chapter 39
Retail Marijuana Establishments and Retail Marijuana Social Clubs

Section 39-1-1 Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 39-1-2 Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 39-1-3 Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in the Town of Millinocket.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 39-1-4 Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 39-1-5 Penalties.

This ordinance shall be enforced by the Code Enforcement Officer / Police Department. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

Council Signatures	1	2
	3	4
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Approved by Millinocket Town Council

Date Enacted:

Attest:

Article 2

Medical Marijuana

Section 39-2-1 Medical Marijuana Registered Dispensaries

A. No Medical Marijuana Registered Dispensary as defined by 22 M.R.S. § 2422, shall be located within 1000 feet of the property line of a public or private school at the time application is made.

B. No Medical Marijuana Registered Dispensary shall be located within 200 feet of the property line upon which the Dispensary is located and the nearest property line of any of the following which is in existence when an application for a Medical Marijuana Registered Dispensary is made:

i. Church or other facility for religious worship,

ii. Licensed daycare facility

C. No Medical Marijuana Registered Dispensary shall be located within 50 feet of the property line of a private residence at the time application is made.

D. No more than two (2) Medical Marijuana Registered Facilities shall be located in the Town of Millinocket.

E. Medical Marijuana Registered Dispensaries shall only be open for business between the hours of 8:00a.m. and 8:00p.m. daily.

F. All exhaust fans and vents shall be brought above the eave of the roof line by 12" or per the manufactures installation instructions.

G. Security measures at Medical Marijuana Registered Dispensaries shall include the following at a minimum:

i. Security surveillance cameras installed and in operation twenty-four (24) hours a day, seven (7) days a week to monitor all entrances, along with the interior and exterior of the dispensary or facility, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;

ii. Door and window intrusion, robbery and burglary alarm systems with an audible on- site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communication.

iii. A safe, lockable room must be present in the building and suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the dispensary or facility.

iv. Exterior lighting that illuminates all exterior walls of the licensed dispensary or facility; and

v. Deadbolt locks on all exterior doors and locks or bars on any other access point all security recordings shall be preserved for thirty (30) days by management of licensed dispensary.

H. Inspections of the property and buildings will be conducted yearly by the Millinocket Police Department and Code Enforcement Officer.

I. The operators of Medical Marijuana Registered Dispensaries shall obtain an annual business license from the Town of Millinocket after a successful inspection has been conducted and fee paid.

i. Inspection and permitting fees for Medical Marijuana Registered Dispensary shall be \$500.00 per year.

J. The consumption, ingestion or inhalation of medical marijuana on or within the property of a Medical Marijuana Registered Dispensary is prohibited; provided, however, that a Medical Marijuana Registered Dispensary employee who is a registered patient, as that term is defined in 22 M.R.S. § 2422 (12), as the same may be amended from time to time, may consume medical marijuana inside the building(s) on the licensed property, if such consumption occurs via oral consumption and not by smoking. For purpose of the subsection, the term "licensed property" shall include the lot or parcel of the land upon which the Medical Marijuana Registered Dispensary is located.

K. Visibility of activities; control of emissions; disposal plan for a Medical Marijuana Registered Facility shall be as follows:

i. All activities of Medical Marijuana Registered Dispensaries including, without limitation, cultivation, growing, processing, displaying, selling and storage shall be conducted indoors.

ii. No marijuana or paraphernalia shall be displayed or kept in a dispensary or facility so as to be visible from outside the building (s).

iii. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a dispensary or facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulation.

iv. All Medical Marijuana Registered Dispensaries shall have in place an operation plan for proper disposal of marijuana related byproducts.

L. Objectionable Odor Determination.

i. An odor will be deemed objectionable and is a public nuisance when any of the following occurs:

a. The odor generated by the Medical Marijuana Registered Dispensary creates a public nuisance at common law; or

b. The noxious exhalations or offensive smells from the Medical Marijuana

Registered Dispensary or Medical Marijuana Cultivation Facility is injurious and dangerous to the health, comfort or property of individuals or the public.

ii. Compliance. No Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility shall be exempt from complying with the odor management standards contained in this Ordinance. The odor standards apply to all existing and future Medical Marijuana Registered Dispensaries except as otherwise provided herein.

iii. Enforcement. In the event that the Code Enforcement Officer receives complaints that smells or odors are detectable beyond the property line, the following process shall be used to investigate and remedy the odor problem:

a. Within three (3) business days of receiving a complaint, the Code Enforcement Officer shall investigate the property to assess the situation and, if necessary, discuss odor compliance with the business operator, including but not limited to asking the business operator what is being done to mitigate odors. If the Code Enforcement Officer detects odor beyond the property lines, the Code Enforcement Department shall provide verbal and written warning to the business operator and instructions to comply with odor management provisions of this Ordinance. The Code Enforcement Officer shall require the business operator to remedy the odor problem and come into compliance with the provisions of this ordinance within five (5) business days.

b. If after five (5) business days the complaints persist and/or the Code Enforcement Officer continues to observe odor violations, the Code Enforcement Officer shall request the assistance of a law enforcement officer to investigate the complaints. If the Code Enforcement Officer and the law enforcement officer observe odor violations as described above, the Code Enforcement Officer shall notify the business operator of the violation in writing and require conformance within ten (10) business days.

c. If complaints persist and/or the Code Enforcement Officer and the Police Department continue to observe odor violations after the ten (10) business day period as described in Section 22.K.iii.b, the Code Enforcement Officer shall provide a second written notice of violation and require the business operator to submit a written report from a mechanical engineer with recommendations for modification/improvement of the ventilation system within thirty (30) days and installation of recommendations and compliance within forty-five (45) days.

d. If the business operator has not submitted the required report within thirty (30) days, or if the business operator has not submitted evidence of compliance within forty-five (45) days as described in Section 22.K.iii.c, the Code Enforcement Officer shall provide a third and final written notice of violation and turn the matter over to the Town Attorney for enforcement and imposition of penalties pursuant to 30-A M.R.S. §4452.

e. If the business operator has not submitted the required report within thirty (30) days as described in Section 22.K.iii.c or if the business operator has not submitted evidence of compliance within forty-five (45) days, the Town Council may suspend or decline to renew any medical marijuana establishment license or permit after notice and a public hearing.

iv. Exemptions.

a. Complaints related to outdoor burning will be directed to and enforced by the Millinocket Fire Department as per 12 M.R.S. §9325.

b. Smoke or odors originating from the use of outdoor grills or wood, pellet or coal stoves or furnaces.

Council Signatures:

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Enacted Date:

Attest:

Note:

To be added to the **Schedule of Uses in 125 Zoning Ordinance**

Schedule of uses: Medical Marijuana Registered Dispensary Planning Board approval

Town of Millinocket

Chapter 39.3

ADULT USE MARIJUANA HOME CULTIVATION

Section 39-3-1. Purpose.

The purpose of this ordinance is to regulate the home cultivation of adult use marijuana within the Town of Millinocket.

Section 39-3-2. Authority.

This Ordinance is enacted pursuant to the Marijuana Legalization Act, 28-B M.R.S. § 1502(3).

Section 39-3-3. Definitions.

For purposes of this ordinance, the following terms have the following meanings.

“Adult use” means the use of marijuana for recreational, non-medical purposes in accordance with the Marijuana Legalization Act, 28-B M.R.S. §§ 101-1504.

“Domicile” means a person’s established, fixed, permanent or ordinary dwelling place or legal residence to which, whenever the person is absent, the person has the intention of returning. A person may have only one domicile.

“Cultivate or Cultivation” means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana.

“Home Cultivation” means the cultivation of adult use marijuana for personal use in accordance with the Marijuana Legalization Act, 28-B M.R.S. § 1502.

“Immature marijuana plant” means a marijuana plant that is not a mature marijuana plant or a seedling.

“Marijuana” means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. “Marijuana” does not include hemp as defined in Title 7, section 2231.

“Marijuana plant” means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling. “Marijuana Plant” does not include hemp as defined in Title 7, section 2231.

“Mature marijuana plant” means a marijuana plant that is flowering.

“Own or Owned” means to have legal title in fee simple, evidenced by a deed or equivalent instrument. “Own” does not include rental agreements, leasehold interests, easements or rights of way, licenses or permissions to use real estate.

“Parcel of land” means all contiguous land in the same ownership. Lands located on opposite sides of a public or private road are considered one parcel of land.

“Person” means a natural person.

“Seedling” means a marijuana plant that is not flowering, is less than 6 inches in height, and less than 6 inches in width.

Section 39-3-4. Limitation on Adult Use Home Cultivation.

A person 21 years of age or older may, for personal use, cultivate no more than three (3) mature marijuana plants, twelve (12) immature marijuana plants, and an unlimited number of seedlings, either on the parcel of land where the person is domiciled, or on a parcel of land within the municipality which the person owns but where the person is not domiciled, but not both.

A person may not cultivate marijuana for personal adult use on a parcel of land within the municipality that is not owned by the person and on which the person is not domiciled.

A person under 21 years of age may not cultivate marijuana.

Section 39-3-5. No Authorization for Activities Other Than Home Cultivation

This ordinance regulates only home cultivation of adult use marijuana. It does not authorize the transfer, sale, manufacture or processing of home cultivated adult use marijuana. Activities beyond home cultivation are subject to all applicable state and local land use and licensing requirements.

Section 39-3-6. Home Cultivation Must Comply With State Law.

All home cultivation must be done in accordance with the cultivation requirements and personal limits established by the Marijuana Legalization Act, 28-B M.R.S. § 1502. This ordinance does not authorize any home cultivation or related activity to be conducted in a manner that is prohibited by the Marijuana Legalization Act or any other applicable state law.

Section 39-3-7. Not Applicable to Marijuana Cultivation for Medical Purposes

This ordinance does not apply to the cultivation of marijuana for medical use by a qualifying patient, a caregiver, a registered caregiver, or a registered dispensary as authorized by the Maine Medical Use of Marijuana Act, unless such qualifying patient, caregiver, registered caregiver, or registered dispensary is also a person engaging in home cultivation for personal adult use.

Section 39-3-8. No Local Authorization for Commercial Marijuana Establishments

This ordinance does not authorize the commercial cultivation, manufacture, sale, or testing of marijuana within the municipality by adult use establishment licensees as provided in 28-B M.R.S. § 402(1)(A), or caregiver retail stores, registered dispensaries, medical manufacturing facilities or testing facilities as provided in 22 M.R.S. § 2429-D(3).

Section 39-3-9. Effective Date; Duration.

This ordinance is effective immediately upon enactment by the municipal legislative body and shall remain in effect until it is amended or repealed.

Section 39-3-10. Penalties.

This ordinance shall be enforced by the Code Enforcement Officer / Police Department. Violations of this ordinance are subject to the enforcement and penalty provisions of 30-A M.R.S. § 4452.

Date Enacted:

Attest:

Council Signatures:

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