

ARTICLE 12 MEDICAL CANNABIS ORDINANCE

Sec. 5-1201 Authority

The purpose of this ordinance and related guidelines is to regulate the cultivation, processing, storage, sale and distribution of medical cannabis consistent with the Town of Farmingdale Code of Ordinances and the Maine Medical Use of Marijuana Act (Maine Revised Statutes Title 22, Chapter 558-C). The Planning Board of the Town of Farmingdale shall be responsible for administering this ordinance. The Code Enforcement Officer shall be responsible for enforcing this Ordinance, violations of which may be prosecuted pursuant to Rule 80K of the Maine Rules of Civil Procedure.

Nothing in this ordinance shall be interpreted to mean that the Town of Farmingdale is "opting in" or approving of the presence of any retail medical cannabis facility unless such approval is confirmed through a vote by the people of the Town of Farmingdale.¹

Sec. 5-1202 Application and Approval Process

For the purpose of this ordinance, and unless otherwise specified, the terms "facility" or "facilities" shall mean any retail stores, dispensaries, testing facilities, and manufacturing or production facilities relating to medical cannabis. Nothing in this ordinance shall be interpreted to prohibit or limit the number of registered caregivers in the Town of Farmingdale.

Any proposal to establish a new, or alter an existing, medical cannabis facility shall require a permit and approval of the Planning Board. The Planning Board and applicant shall follow the performance standards of this ordinance. A person or entity seeking a permit shall submit the following information in writing to the Town Clerk:

1. A description of the project;
2. A copy of the deed, lease, signed purchase agreement, or other documentation demonstrating the right, title and interest of the applicant;
3. The name and address of the applicant and record owner, if different;
4. A sketch depicting the property boundaries, size and shape of all buildings, layout of parking areas, and locations of outdoor signage and storage areas;
5. Plans for any improvements to the property including any proposed exterior lighting.

All property owners within 500 linear feet, measured in a straight line from the property boundary of the proposed facility shall be considered abutters and shall be provided with notification of all site walks and public hearings. A "public hearing" shall mean a Planning Board meeting at which the applicant and all interested members of the public shall have an opportunity to provide comment on the proposed application.

¹ Any medical cannabis retail store existing in the Town of Farmingdale prior to the December 13, 2018 effective date of the 2018 amendments to the Maine Medical Use of Marijuana Act (Maine Revised Statutes Title 22, Chapter 558-C) shall be considered a legally nonconforming use and may remain in operation. No new medical cannabis retail stores shall be permitted until such time as the Town votes to "opt-in" pursuant to 22 M.R.S. Section 2429-D(3).

Public Safety

The Town Clerk shall notify the abutters by mail at least seven (7) days before the scheduled site walk or public hearing. In addition to other public notification requirements, the town shall notify the Kennebec County Sheriff's Office, the Maine Department of Health and Human Services – Center For Disease Control and Prevention (or its successors), and the Maine Revenue Services prior to the public hearing on any application. The Planning Board shall issue a written decision on the permit application within 30 days of the date of the public hearing. Any person aggrieved by the decision of the Planning Board may appeal the decision to the Farmingdale Board of Appeals within 30 days of the date of the written decision.

The Planning Board may charge to an applicant, in addition to the Application fee, such costs as it deems necessary and reasonable for independent studies, reviews, or reports that the Planning Board may determine are required to provide technical review of the application over and above those furnished by the applicant. The appropriate Application fee, as set by the Farmingdale Board of Selectmen, is provided in Appendix 1.

Sec. 5-1203 Exemptions/Existing and/or Non-Conforming Uses

As an accessory use, medical cannabis home production shall be allowed in any qualifying patient's primary year-round residence (as defined by Maine Revenue Services) or any registered medical cannabis caregiver's primary year-round residence (as defined by Maine Revenue Services) without any requirements for land use permitting. This exemption shall also extend to registered medical cannabis caregivers who cultivate, process or store medical cannabis in a qualifying patient's primary year-round residence (as defined by Maine Revenue Services) for that qualifying patient's sole use.

Any medical cannabis facility lawfully existing at the time of the adoption of this Ordinance must obtain a permit from the Planning Board within 12 months of the date of adoption of this Ordinance. The Planning Board may allow an existing production facility that exceeds the allowed number of registered caregivers provided in Section 5-1204 (2) below to continue operations with its existing number of registered caregivers so long as all other performance standards in Section 5-1204 can be met.

Sec. 5-1204 Performance Standards

Before submission of an application, the applicant must demonstrate to the Planning Board their authorization to cultivate process, store, sell and distribute medical cannabis pursuant to the Maine Medical Use of Marijuana Act (Maine Revised Statute Title 22, Chapter 558-C.) In addition to other requirements of this section and related provisions of the Town of Farmingdale Code of Ordinances, the following shall apply to any application for a new or expanded medical cannabis facility:

Public Safety

1. Medical Cannabis Limit

There shall be a limit of (1) one medical cannabis facility in of any type within the boundaries of the Town of Farmingdale.²

2. Medical Cannabis Production Facility Occupancy Limit

There shall be no more than four registered medical cannabis caregivers allowed to operate within a single building.

3. Density Limit

Only one building containing a medical cannabis facility shall be permitted per lot. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

4. Proximity Location to Other Uses

No building containing a medical cannabis facility shall be closer than 500 linear feet, measured in a straight line from the dispensary or facility building entrance, to the nearest point on the boundary of any property which is occupied by an existing building containing a medical cannabis facility, licensed day care facility, school, church or town owned property (excluding town owned roads).

5. Security

Before granting a permit, the Planning Board shall require that the applicant submit a security plan for the building and property consistent with the applicable state requirements in the Maine Medical Use of Marijuana Act (Maine Revised Statutes Title 22, Chapter 558-C).

6. Outside Appearance

No signs containing the word "marijuana", "cannabis", "420", "710" or any other terms to indicate medical cannabis presence, or any graphics/images such as any portion of a marijuana plant or otherwise identifying medical cannabis shall be erected, posted or in any way displayed on the outside of a medical cannabis facility. Interior advertisements, displays of merchandise or signs depicting the activities of a medical cannabis facility shall be screened to prevent public viewing from outside such facility.

² All medical cannabis facilities in legal existence prior to the amendment of this ordinance at Town Meeting on June 13, 2019 shall collectively be considered to equal one (1) facility for purposes of this ordinance provision. Until such time as all the medical cannabis facilities in legal existence prior to the amendment of this ordinance cease business operations, no new permit applications for medical cannabis facilities shall be considered or granted by the Planning Board.

Public Safety

7. Odorous Air Contaminants

It shall be an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants from any source so as to result in detectable odors that leave the premises upon which they originate and interfere with the reasonable and comfortable use and enjoyment of property.

8. Proposed Location

All applications for medical cannabis facilities shall be accompanied by a detailed map indicating the proposed location of the facility.

9. Safety

Before granting a permit, the Planning Board shall require that the applicant submit an inspection and capacity report prepared by a licensed Maine electrician for the maximum requirements of the proposed use. In addition, the Planning Board shall require that the applicant submit a full list of all chemicals to be stored at the proposed site, including carbon dioxide and propane canisters, together with a letter from the Farmingdale Fire Chief acknowledging the department's capability to adequately address any hazardous situation that may be presented by storage of said chemicals at the proposed site.

Sec. 5-1205 Validity and Severability

Should any section or provision of this ordinance be declared by the courts to be invalid or unlawful, such decision shall not invalidate any other section or provision of this ordinance.

Sec. 5-1206 Definitions

Building: Any structure which is constructed or erected, or positioned, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for housing, storing, or enclosing persons, animals, or personal property or conducting business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without enclosed passageways or openings, each portion of such building is deemed a separate building. The definition includes mobile homes or mobile structures, pre-manufactured or pre-cut structures, movable storage units, freight containers, and semi-trailers positioned or installed on property and serving in the function of a building.

Facility: For the purpose of this ordinance, and unless otherwise specified, the terms "facility" or "facilities" shall mean any retail stores, dispensaries, testing facilities, and manufacturing or production facilities relating to medical cannabis.

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122) §1.17, "Marijuana."

Public Safety

Medical Cannabis: Cannabis 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 Cannabis Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of cannabis in accordance with state law. A person who is a registered medical cannabis caregiver must be at least twenty-one (21) years of age and may not have been convicted of a disqualifying drug offense.

Medical Cannabis Land Uses: Any of land uses that cover lawful cultivating, processing, storing, selling and distributing medical cannabis, including, but not limited to, the following:

1. **Medical Cannabis Home Production:** Cultivating, processing and/or storing of medical cannabis by a qualifying patient at their own primary year-round residence or a registered medical cannabis caregiver at their own primary year-round residence for use by a qualifying patient. This definition shall also extend to registered medical cannabis caregivers who cultivate, process or store medical cannabis in a qualifying patient's primary year-round residence for that qualifying patient's sole use. This shall be considered an accessory use.
2. **Medical Cannabis Production Facility:** A facility used for cultivating, processing, and/or storing medical cannabis by one or more registered medical cannabis caregiver(s) at a location which is not the registered medical cannabis caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial use.
3. **Medical Cannabis Registered Dispensary:** A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis, paraphernalia or related supplies and educational materials to qualifying patients. Note that a dispensary maybe either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.

Effective Date: June 14, 2018 Town Meeting

Revised Date: June 13, 2019 Town Meeting

