

Town of Frenchville
Ordinance Pertaining To:
Registered Dispensaries and Cultivation Facilities of Medical
Marijuana

General Requirements

A. Purpose and Authority

The State of Maine has enacted the Maine Medical Use of Marijuana Act, Title 22 M.R.S. Section 2421, et seq. which authorizes the licensing and operation of dispensaries for the cultivation and sale of marijuana for medical use.

Title 22 MRSA §2428 (10) authorizes any political subdivision of the State of Maine to limit the number of dispensaries that may operate in the political subdivision and to enact reasonable regulations applicable to dispensaries.

The Town of Frenchville wishes to exercise its constitutional home rule authority to regulate the number, location and safe operation of Registered Medical Marijuana Dispensaries and Cultivation Facilities located within the Town of Frenchville.

This Ordinance shall serve to govern the location and licensing requirements specific to the Town of Frenchville for the operation of a Registered Dispensary and Cultivation Facility.

These standards are intended to provide review criteria and guidance.

B. Definitions

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

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 Town.

House of 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).

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

Registered Dispensary: "Registered Dispensary," or "Dispensary" means a entity that is registered by the Maine Department of Human Services that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients in accordance with the Maine Medical Use of Marijuana Act."

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind.

Mobile Unit: Any vehicle used for the delivery and or dispensing of medical marijuana.

C. General Requirements & Application Process

1. No building, structure or land shall be used or occupied as a Registered Dispensary or Cultivation Facility without the prior review and approval of the Frenchville Planning Board as provided in this Ordinance. The requirements of this Ordinance shall apply to any and all, ancillary structures, mobile units, or any future types of dispensary mechanisms as yet contemplated within this Ordinance.
2. Any person or entity seeking to construct and/or operate a Registered Dispensary or Cultivation Facility in the Town of Frenchville shall first submit a written application for a land use permit. The application shall be signed by the applicant and contain the following:
 - (a) A description of the project;
 - (b) A copy of the deed for the property, option to purchase, or other documentation to demonstrate right, title or interest in the property on the part of the applicant;
 - (c) The name and address of the owner of record or developer, if different;
 - (d) A sketch which depicts the property boundaries & land area;
 - (e) The size, shape and location of all existing and proposed buildings;
 - (f) Location and layout of vehicular parking areas, walkways, fences, driveways with dimensions;
 - (g) Location of outdoor storage areas and signs;
 - (h) Plans for all proposed exterior lighting including location and type;
 - (i) An application fee of \$20.00.

3. A public hearing will be scheduled to consider any application to establish or operate a Registered Dispensary or Cultivation Facility in the Town of Frenchville. Said public hearing shall be conducted prior to final action on the application.
4. All abutting property owners within 1,000 feet of the property involved, including those property owners directly across from any public way of the property involved, shall be given written notice of the public hearing at least 14 days prior thereto. In addition, notice of the meeting and the agenda shall be published in the local newspaper at least seven (7) days before the date of the meeting and posted in seven (7) places of general public access. The notice shall include a brief description of the application and the time and place of the meeting.

D. Review Standards

1. The following criteria and standards shall be utilized by the Planning Board in reviewing applications to establish or operate a Registered Dispensary or Cultivation Facility in the Town of Frenchville. The burden of proof shall rest with the applicant to show that the proposed land use activity is in conformity with the provisions of this ordinance in all respects.
2. The Planning Board shall approve the application unless the proposed development does not meet the following standards:
 - (a) All cultivation of marijuana must take place in an enclosed, locked facility unless the plants are being transported between the dispensary and a location at which the dispensary cultivates them as disclosed to the Maine Department of Human Services.
 - (b) No Registered Dispensary or Cultivation Facility shall be allowed within 300 feet of an existing residential dwelling and 100 feet of a property line.
 - (c) No Registered Dispensary or Cultivation Facility shall be located within 1000 feet of any Public School, Day Care Facility, House of Public Worship, Bus Transfer Site, Public Park, Municipal Building or Nursing Home Facility.

MAP NUMBER	LOT NUMBER	DESCRIPTION
#12	#3	Public School
-	-	Day Care Facility
#5	#23	House of Public Worship
#12, #15	#3, #20	Bus Transfer Site(s)
#14	#23B	Public Park
#15, #6	#20, #13A	Municipal Building(s)
#13	#4	Nursing Home

- (d) The proposed development must be in compliance with all municipal, state and federal Codes and regulations and be licensed by the Maine Department of Human Services.
- (e) Any Registered Dispensary which dispenses marijuana on site must provide an interior waiting area to ensure no exterior waiting of clients with a minimum of 50 square feet.
- (f) Any Registered Dispensary which dispenses marijuana on site must provide off street parking with 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.
- (g) Security requirements for any Registered Dispensary or Registered Cultivation Facility shall include as a minimum:
 - 1. 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 Maine State Police.
 - 2. Exterior security lighting comprised of spot lights or flood lights illuminating the full perimeter of the facility during night time hours.
 - 3. Video surveillance capable of covering the entire perimeter of the facility and interior to include all plant cultivating, processing, and dispensing areas within 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.
- 3. No more than one (1) Registered Dispensary or Cultivation Facility shall be permitted to operate or located in the Town of Frenchville at any one time.
- 4. The Planning Board shall issue a written decision on the application with findings of fact within thirty (30) days of the date of the hearing.
- 5. Any person aggrieved by the Decision of the Planning Board may appeal to the Frenchville Zoning Board of Appeals within 30 days from the date of the written decision.
- 6. Any appeal from the decision of the Zoning Board of Appeals shall be to the Superior Court and filed within 30 days of the date of the written decision of the Zoning Board of Appeals.

E. Disposal

Disposal of any unused portion of Marijuana plants shall be done in accordance to the rules defined by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services or other applicable agency, statute, or regulation of the State of Maine.

No unused portion of any Marijuana plant shall be deposited in a dumpster or with the other solid waste of the operator.

F. Personnel

No Registered Dispensary or Cultivation Facility may employ or continue to employ any person who has been convicted of any state or federal controlled substance law.

License and Permits:

Registered Dispensaries and Registered Cultivation Facilities

Purpose

The purpose of this Article is to control the issuance of a permit to operate either a Registered Dispensary or Cultivation Facility as may be permitted by the State of Maine and the Frenchville Planning Board. The Town of Frenchville will not permit more than one (1) Medical Marijuana Dispensary and more than one (1) Medical Marijuana Cultivation Facility at any one time.

Permit Required

1. *Operation of a Registered Dispensary or Registered Cultivation Facility:* No Permit or renewal of a Permit may be issued unless the facility is permitted by the State of Maine Department of Health and Human Services and the Frenchville Planning Board to be eligible for a Certificate of Occupancy.

No facility shall conduct business within the limits of Frenchville without first securing a permit from the Municipal Officers of the Town of Frenchville.

2. *Applications for permit:* Applications for a permit shall be made in writing to the Municipal Officers through the Town Clerk's Office and shall state:
 - a. The name of the Non-Profit Owner;
 - b. Location and type of Facility;
 - c. Copy of Certificate of Registration;
 - d. Copy of complete State of Maine DHHS Application for Dispensary.

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 or mobile unit to be permitted.
4. *Fee:* A fee of \$500.00 for either a Registered Dispensary or Registered Cultivation Facility shall apply for first time and renewal applications to provide for associated administrative expenses. A complete application shall include copies of the Notices of Intent (NOI) published in a local newspaper, and copies of the receipt(s) of certified mail to abutters. The costs of publishing an NOI, and certified mail shall be borne by the applicant.
5. *Public Hearing:* The Municipal Officers shall, prior to granting any new permit or annual renewal, provide for not less than 7 days' notice of a public hearing, within 30 days' upon the receipt of the completed 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:* In granting or denying an application, the Municipal Officers shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
 - a. Conviction of any officer, board member or employee of the Registered Dispensary or Cultivation Facility of any Class A, Class B, or Class C crime;
 - b. Noncompliance of the Registered Dispensary or Cultivation Facility or its use with any local zoning ordinance or land use ordinance;
 - c. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with, or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;
 - d. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;
 - e. Any violation of State Law or Frenchville Ordinance directly related to the operation under the provisions of law of the Registered Dispensary or Registered Cultivation Facility.

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 Registered Dispensary and Cultivation Facility shall be inspected by Code Enforcement and the State Fire Marshall to insure that the Dispensary is in compliance with ADA requirements, and Fire Safety and Security requirements.

Suspension or 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 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.

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 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 well-being. Notification to Municipal Officers must be made prior to any deviation or change of business hours.

Permit and Appeal Procedures

Notice of decision. Any Licensee requesting either a Registered Dispensary or Registered Cultivation Facility 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 Town 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.

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.

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 Twenty-five Hundred Dollars (\$2,500) for subsequent offenses, to be recovered, on complaint, to the use of the Town of Frenchville. 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.

Separability

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.

Effective Date


Notwithstanding the provisions of 1 M.R.S.A. Section 302 and regardless of the date on which it is approved by the voters, this ordinance shall be effective as of August 10, 2010 and shall govern any and all applications for permits, licenses or approvals required under this ordinance that were or have been pending before any officer, board or agency of the Town of Frenchville at any time after August 10, 2010.

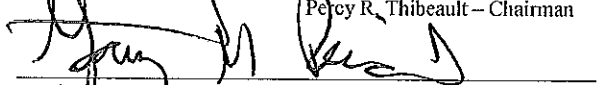
(Last Revised: March 11, 2011)
Town of Frenchville

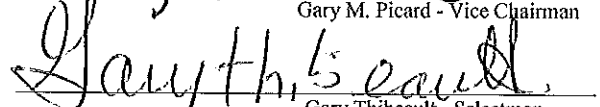
The Board of Selectmen hereby certify that this is a true copy of the proposed ordinance entitled, "Registered Dispensaries and Cultivation Facilities of Medical Marijuana" to be enacted for the Town of Frenchville.

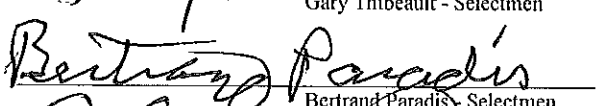
Given under our hands this 11th day of March, 2011.

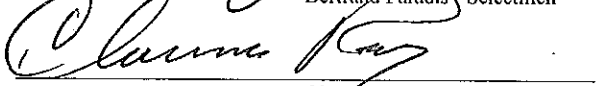
Board of Selectmen, Frenchville ME


Percy R. Thibault - Chairman

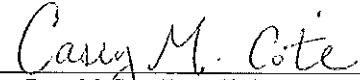

Gary M. Picard - Vice Chairman


Gary Thibault - Selectmen


Bertrand Paradis - Selectmen


Clarence L. Roy - Selectmen

A true copy,

ATTEST: 
Casey M. Cote, Town Clerk
Frenchville, ME