

CITY OF LEWISTON

MORATORIUM ON MEDICAL MARIJUANA-RETAIL SALES AND DISTRIBUTION

WHEREAS, the Maine Medical Use of Marijuana Act, 22 M.R.S. §§ 2421 to 2430-B, (the “Medical Act”) authorizes the possession, cultivation, and furnishing of medical marijuana to qualifying patients by caregivers, as those terms are defined in 22 M.R.S. § 2422; and

WHEREAS, the city currently regulates caregiver operations pursuant to the Code of Ordinances, Chapter 22, Article XV and Appendix A, Zoning and Land Use Code in an effort to provide for the safe sale and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the Maine Medical Use Marijuana Act; and

WHEREAS, the current ordinance did not consider the siting and operation of registered primary caregiver operations engaged in the retail sale and distribution of medical marijuana; and

WHEREAS, during its second special session, the 128th Maine Legislature approved LD 1539, “An Act to Amend Maine’s Medical Marijuana Law,” which, if finally enacted, would amend the Medical Marijuana Act to expressly authorize the operation of registered caregiver retail stores, and LD 238, “An Act to Amend the Maine Medical Use of Marijuana Act,” which, if finally enacted, would expressly authorize municipalities to regulate registered caregiver operations; however, the ultimate disposition of LD 1539 and LD 238 is unknown at this time; and

WHEREAS, the City’s Code of Ordinances is insufficient to prevent serious public harm that could result from the siting and operation of registered primary caregiver operations engaged in the retail sale and distribution of medical marijuana; and

WHEREAS, the City Council of the City of Lewiston finds that the retail sales and distribution of medical marijuana from registered primary caregivers and the siting of caregiver operations as defined in the Code of Ordinances, Chapter 22, Article XV and Appendix A, Zoning and Land Use Code and related uses and activities within the City has potentially serious implications for the health, safety, and welfare of the City and its residents and visitors, including, but not limited to, questions as to compatibility of such facilities with existing and permitted land uses in the City and the possibility of unlawful sale of marijuana and marijuana products; and

WHEREAS, an overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of retail sales and distribution of medical marijuana from registered primary caregivers and the siting of caregiver operations and related uses and activities located and operated in the City; and

WHEREAS, the City needs time to understand the disposition of LD 1539, LD 238, and how any State department promulgated rules may effect or be related to Lewiston’s Code of Ordinances and to evaluate the effects of retail sales and distribution of medical marijuana from registered primary caregivers and the siting of caregiver operations and related uses and activities in order to prepare reasonable ordinance provisions governing the siting, licensing, and operation of such facilities, uses, and activities; and

WHEREAS, 30-A M.R.S. § 4356 authorizes the City to establish a moratorium on the processing or issuance of development permits or licenses;

NOW, THEREFORE, the City of Lewiston hereby ordains, based on the foregoing findings, that the following moratorium provisions are adopted:

1. Applicability

During the time this moratorium is in effect, no official, officer, board, body, agency, agent or employee of the City of Lewiston shall accept from, process, or act upon any application for any approval required under any ordinance of the City of Lewiston related to registered primary caregiver operations seeking to provide medical marijuana to its registered patients out of a store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons, including a medical clinic where a licensed caregiver furnishes or sells marijuana or marijuana products to qualifying patients,. Nor shall any person or organization establish within the City of Lewiston a registered primary caregiver operation to provide medical marijuana to its registered patients out of a store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons, or a medical clinic where a licensed caregiver furnishes or sells marijuana or marijuana products to qualifying patients on or after the effective date of this ordinance and during the period in which this ordinance remains in effect.

2. Definitions

As used in this Ordinance, the following terms have the following meanings:

Registered patient means a patient who has a registry identification card issued by the State of Maine.

Registered primary caregiver or primary caregiver means a person, a hospice provider licensed under Title 22 M.R.S.A. chapter 1681, or a nursing facility licensed under Title 22 M.R.S.A. chapter 405 that provides care for a registered patient and that has been named by the registered patient as a primary caregiver to assist with a registered patient's medical use of marijuana. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Registered primary caregiver operation means a registered primary caregiver that cultivates marijuana for 2 or more registered patients pursuant to State law.

Retail means sale to the ultimate consumer for direct consumption and not for trade.

Terms not defined in this Ordinance shall have the same meanings as they have in the Code of Ordinances and the Zoning and Land Use Code Ordinance.

3. Enforcement, Violation, and Penalties

This ordinance shall be enforced by the Department of Planning and Code Enforcement.

Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452 including, but not limited to, fines and penalties, injunctive relief, and recovery of the city's reasonable attorney's fees and costs in prosecuting any such violations.

4. Effective Date

Upon its enactment, this Ordinance takes effect July 13, 2018 and shall remain in effect for a period of 180 days after the effective date, until January 9, 2019, unless earlier extended, repealed, or modified by the Lewiston City Council

5. Applicability

Notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall apply to any proposal to establish a caregiver operation to provide medical marijuana to registered patients out of a retail store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons, or a medical clinic where a licensed caregiver furnishes or sells marijuana or marijuana products to qualifying patients, as those terms are defined in 22 M.R.S. § 2422, whether or not an application or proceeding to establish said use would be deemed a pending proceeding under 1 M.R.S.A. § 302.

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.

Adopted by the City Council: July 10, 2018 (to be effective July 13, 2018)

Ordinance Expires: January 9, 2019