

Medical Marijuana Definitions – Section 3 North Berwick Zoning Ordinance

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Registered Caregiver: A “Medical Marijuana Registered Caregiver” as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Counseling Office:

A “Medical Marijuana Counseling Office” is an office for consultation with Medical Marijuana Qualifying Patients and operated by a single Medical Marijuana Registered Caregiver to furnish or sell Medical Marijuana to Medical Marijuana Qualifying Patients, as those terms are defined in 22 M.R.S. § 2422. No Medical Marijuana will be left on site. Two or more Medical Marijuana Registered Caregivers are prohibited from forming, owning or operating a Medical Marijuana Counseling Office, except as permitted under 22 M.R.S. 2430-D. A Medical Marijuana Counseling Office is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or conditional use.

Medical Marijuana Registered Dispensary:

A “Medical Marijuana Registered Dispensary” as that term is defined in 22 M.R.S. § 2422(6), as may be amended, means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses Medical Marijuana or related supplies and educational materials to Medical Marijuana Qualifying Patients and the caregivers of those patients. A Medical Marijuana Registered Dispensary includes a location at which marijuana is cultivated pursuant to 22 M.R.S. § 2428, as may be amended. A Medical Marijuana Registered Dispensary is not a medical office or a professional office and is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a conditional use.

Medical Marijuana Qualifying Patient: A “Medical Marijuana Qualifying Patient” as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, means the acquisition, possession, cultivation, manufacture, use delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Vegetative Footprint: “Medical Marijuana Vegetative Footprint” means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

Medical Marijuana Requirements and Standards

Section 5.2.1 North Berwick Zoning Ordinance

5.2.1 Medical Marijuana

A. Medical Marijuana Registered Dispensaries

The State of Maine enacted the Maine Medical Marijuana Act, 22 M.R.S. § 2421, ET SEQ. Marijuana has both legitimate medical uses and a history of widespread illegal use and trafficking. In order to preserve the safety, health and welfare of the citizens of North Berwick and others, the dispensing requires careful attention and control, including but not limited to reasonable security and oversight requirements.

a. Security and oversight requirements:

1. There shall be no outdoor cultivation of marijuana.
2. Alarm Systems – Medical Marijuana Registered Dispensaries shall have door and window intrusion alarms with audible and police notification components.
3. Exterior security lighting – Medical Marijuana Registered Dispensaries shall have spot lights with motion sensors covering the full perimeter of the facility.
4. Video surveillance – Medical Marijuana Registered Dispensaries shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week and operate at all times that the facility is not open to Medical Marijuana Qualified Patients. Records of surveillance shall be kept for a minimum of 30 days.
5. Medical Marijuana Registered Dispensaries may not continue to employ an employee who is convicted of a crime under state or federal law involving controlled substances while employed at the Medical Marijuana Registered Dispensary. If a principal officer or board member of a Medical Marijuana Registered Dispensary is convicted of a crime under state or federal law, that Medical Marijuana Registered Dispensary shall immediately be considered in violation of this ordinance.
6. A Medical Marijuana Registered Dispensary may not be open to the public between the hours of 8:00 pm and 7:00 am.
7. Sufficient measures must be in place at all times to prevent smoke or odor from exiting a Medical Marijuana Registered Dispensary.

- b. Medical Marijuana Registered Dispensaries must be located in area defined as Village Center Overlay District as of July 1, 2012 with a minimum of 1000 feet from any public or private school, public library, daycare, playground or public park and a minimum of 500 feet from any church, chapel, parish house, other place of worship, measured by straight line from the Medical Marijuana Registered Dispensary property line to the property line of the protected location.
- c. No more than one registered Medical Marijuana Registered Dispensary may exist in the Town of North Berwick and is limited to 2500 square feet.
- d. If there is both cultivation and dispensation activities occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of building used for dispensation purposes.
- e. Hours of operation shall be between 8:00 am to 5:00 pm, Monday through Saturday.
- f. On-site consumption– The consumption, ingestion or inhalation of Medical Marijuana on or within the premises of a Medical Marijuana Registered Dispensary is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Medical Marijuana Registered Dispensary’s entrance.

B. Home Cultivation of Medical and/or Adult Use Marijuana

a. Home cultivation standards.

- 1. Single-family detached dwellings:** In single-family detached dwellings, marijuana may be grown or cultivated inside and/or outside of the home, outbuilding, and/or garage if growing is conducted in conformance with Standards contained in this ordinance and in conformance with Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 2. Other residential dwellings:** In other residential dwellings, marijuana may be grown, cultivated, processed, and/or stored inside a dwelling unit if cultivation is conducted in conformance with Standards contained in this ordinance and in conformance with Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 3. Gases:** The use of gas products, including but not limited to carbon dioxide, sulfur dioxide, and butane, and ozone generators is prohibited

b. General standards.

- 1. Residency:** Home cultivation shall only be conducted by a resident for whom the dwelling unit is their primary residence in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 2. Ownership:** A resident who does not own his or her primary residence and who wants to cultivate marijuana shall obtain written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town, upon request.
- 3. Enclosed, locked facility:** Home cultivation, whether inside or outside of the primary residence, shall only be conducted in an enclosed, locked facility or outdoor area which is accessible only by the individual who is authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 4. Limited area dedicated to cultivation:** Cultivation shall only be conducted in a contiguous area of not more than 1/4 of the total square footage of the dwelling unit or 120 square feet, whichever is less. No marijuana shall be grown, cultivated, processed, and/or stored within a common area or limited common area of the property that is devoted to residential use.

5. **Screening of outdoor cultivation:** No exterior evidence of cultivation, including signs, shall be visible from a public way or area. Plants shall be entirely screened from common visual observation from a public way or area by natural objects, plantings, or a solid fence at least six feet or taller in height, density, and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such that they are visible from a public way or area, either the plants shall be cut to not extend higher than the screening or the individual who is authorized to cultivate the marijuana shall install additional screening sufficient to conceal the plants from public view within 10 days of notification of the violation by the Code Enforcement Department.
6. **Commercial sale:** Commercial sale of marijuana grown, cultivated, processed, and/or stored on a residential property is prohibited, except to members of the household and family members who are qualifying patients that do not reside in the household or as otherwise allowed under the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate, and the sale of marijuana paraphernalia is prohibited.
7. **Compliance with health and safety codes:** The primary residence, outbuilding, garage, or other structure where marijuana is grown, cultivated, processed, and/or stored shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes.
8. **Chemicals and Pesticides:** Cultivation that uses any chemical in the growing, cultivation, production, storage, and/or distribution of marijuana shall do so in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate. The only pesticides allowed to be used in marijuana cultivation facilities are non-synthetic substances, unless specifically listed as “prohibited” on the National List, and pesticides determined to be “minimum risk pesticides” pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended.
9. **Ventilation and odor management:** Any primary residence, outbuilding, garage, or other structure used for cultivation shall have proper ventilation to prevent mold damage and to prevent odors or particles from becoming a nuisance to surrounding properties or the public.

10. Waste disposal: All marijuana waste and/or residue resulting from home cultivation, including waste and/or residue from the growth, cultivation, processing, and/or storage of marijuana, shall be disposed of in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate Solid Waste. Waste and/or residue shall not be placed in exterior refuse containers without first being made unusable and unrecognizable through grinding and incorporating it with non-consumable, solid wastes, such as paper, plastic, cardboard, food, grease, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.

- C. Reserved For Future Use**
- D. Reserved For Future Use**
- E. Reserved For Future Use**
- F. Reserved For Future Use**

G. Performance Standards for Medical Marijuana Establishments

a. General standards for Medical Marijuana Establishments.

- 1. Ownership:** An operator of a Medical Marijuana Establishment who does not own his or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.
- 2. Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.
- 3. Security and oversight requirements:**
 - (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.
 - (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
 - (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
 - (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
 - (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
- 4. Compliance with health and safety codes:** The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.

- 5. Waste disposal:** All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. Waste and/or residue shall not be placed in exterior refuse containers without first being made unusable and unrecognizable through grinding and incorporating it with non-consumable, solid wastes, such as paper, plastic, cardboard, food, grease, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.
- 6. Setbacks from Sensitive Uses:** No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback of an existing medical marijuana production facility shall be required to sign a form, which may be obtained from the Code Enforcement Department, which indicates that they are aware that an existing medical marijuana cultivation site is located within the setback of their proposed site.
- 7. Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with Zoning Ordinance.
- 8. Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment shall prepare an Operations Manual and Safety Plan. The Operations Manual and Safety Plan shall describe, at a minimum, policies and procedures for employee safety, product and building security, hours of operation, storage and use of hazardous materials, including but not limited to, chemicals and gases, waste management, contamination protocols, and methods of distribution to qualifying patients. The Operations Manual and Security Plan shall be maintained at the facility and made available for inspection upon request.
- 9. Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - 1. Description of the proposed actions or technologies for each odor-producing activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;
 - 2. Description of the formulas, provided by the manufacturer or supplier of the technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;
 - 3. Maintenance and replacement schedule for key system components, provided by the manufacturer or supplier of the technology;
 - 4. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
 - 5. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
 - 6. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
 - 7. Description of daily standard operating procedures to verify that the odor control systems are operational;
 - 8. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
 - 9. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.

- 10. On-site consumption of medical marijuana:** The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.
- 11. Signage and advertising:** All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.
- 12. Inspections:** Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the premise will be reason for revocation of license to operate the Medical Marijuana Establishment.
- 13. Other laws remain applicable:** A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.