

Carrabassett Valley Selectmen's Meeting
4:30 p.m. Monday October 22nd, 2018 at the Town Office

Agenda:

The purpose of the meeting is for the Board of the Selectmen to meet with the Marijuana Businesses Ordinance Committee to discuss whether or not the Town should vote on a Moratorium that would temporarily prohibit Medical Marijuana Businesses from operating in the Town of Carrabassett.

Attached please find:

- Some basic bullet points on the subject
- A recent "Marijuana Statutes (Maine Law) Cheat Sheet" produced by Maine Municipal Association (MMA)
- A Draft Copy of a Medical Marijuana Moratorium

Please note that the Marijuana Business Ordinance Committee is meeting at 6:00 p.m. on Tuesday (Oct. 23rd).

Some Basic Bullet Points Regarding a Medical Marijuana Business Moratorium

Dave Cota October 19th, 2018

Currently, all Adult Use Marijuana Businesses (Retail, Cultivation, Manufacturing and Testing) are prohibited in a Town unless the legislative body of a Town votes to “Opt In” (a Town Meeting Vote in our case).

Unless a Town has passed a moratorium against it, currently, all Medical Marijuana Businesses are allowed to operate in a Town until December 13th when they are prohibited (except Cultivation) unless a Town votes to “Opt In” to allow these businesses. This is part of L.D. 1593 that was passed by the Legislature.

This same legislation (L.D. 1593) did not mention “Medical Cultivation” businesses. Therefore, in theory, these businesses would continue to be allowed in a Town after Dec. 13th unless the Town passed a Moratorium against it. However, depending on which lawyer interpretation you get we may or may not be able to prevent “commercial” medical cultivation to operate. There is some legal thought that the “Home Rule” provisions in the law allow a Town it include medical marijuana in a moratorium (as the Town of Farmington did).

A Medical Marijuana Moratorium (see attached) voted favorably by the Town would prohibit medical marijuana businesses in a Town upon enactment of the Moratorium. Regardless of a vote on a moratorium however, medical marijuana businesses (except caregivers) would still be subject to all Town Land use Ordinance regulation.

We have attached the latest version of a Maine Municipal Association Sample Moratorium Ordinance against allowing Medical Marijuana Businesses in a Town if a Town chooses to go that route. A moratorium can not ban Registered Medical Marijuana Caregivers or what they are allowed to do under the law. It can ban, for a period of time specified in the moratorium, medical marijuana businesses. After discussion with an MMA attorney, they added a provision in the attached moratorium that includes Commercial Medical Cultivation.

If the Selectmen choice to present a medical marijuana moratorium for at Town Meeting vote a “best case scenario” timetable would look like:

Oct. 22nd: Selectmen call a Public Hearing

Oct. 31st: Public Hearing notice in ‘Irregular’ (posted previously on Town website)

Nov. 5th: Selectmen meet and Sign Certified Copy Moratorium

Nov. 19th: Special Town Meeting

New Maine Marijuana Statutes Cheat Sheet

Adult Use Marijuana Act – P.L. 2017 c. 409 (LD 1719)

- Legalizes the use and commercial sale of marijuana for recreational purposes
- Enacted May 2, 2018 as **emergency legislation**
- Completely replaces the citizen-initiated Marijuana Legalization Act
- Establishes state licensing process for adult use marijuana establishments (no social clubs)
- **Default is prohibition** – municipalities must vote to “opt in” to operation of adult use marijuana establishments within the municipality
- State licensing conditioned on municipal approval
- State licensing of adult use marijuana establishments will not begin until at least summer 2019
- Municipalities may regulate adult use marijuana establishments locally
- Municipalities may regulate home cultivation, but may not generally prohibit, zone or license the activity

Medical Marijuana Law Amendments – P.L. 2017 c. 447 (LD 238)

- Amendment to the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421-2430-B)
- Enacted July 9, 2018, as **emergency legislation**
- Carve-out of some provisions of LD 1539
- Establishes state registration requirements for medical marijuana products manufacturing
- Expressly recognizes municipal home rule authority to regulate registered caregivers, registered dispensaries, testing facilities and manufacturing facilities, except municipalities cannot prohibit or limit number of caregivers

Medical Marijuana Law Amendments – P.L. 2017 c. 452 (LD 1539)

- Complete overhaul of the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421-2430-B)
- Enacted July 9, 2018, **but not yet in effect** - effective date is December 13, 2018
- Authorizes registered caregivers to operate medical marijuana retail stores
- Allows six additional registered dispensaries, eliminates cap on dispensaries after 2021
- Establishes state registration requirements for medical marijuana products manufacturing
- **Local code enforcement officers can obtain caregiver registration information from State**
- Expressly recognizes municipal home rule authority to regulate registered caregivers, registered caregiver retail stores, registered dispensaries, testing facilities and manufacturing facilities, except municipalities cannot prohibit or limit number of caregivers
- **Default will be prohibition** – After December 13, 2018, municipalities must vote to “opt-in” to operation of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities
- Medical marijuana establishments already in operation with municipal approval as of December 13, 2018, will be grandfathered

**‘MUNICIPALITY OF CARRABASSETT VALLEY
MORATORIUM ORDINANCE REGARDING
MEDICAL MARIJUANA RETAIL STORES, DISPENSARIES,
COMMERICAL CULTIVATION FACILITIES, TESTING FACILITIES, AND
MANUFACTURING FACILITIES’**

WHEREAS, the legislative body of the Municipality of Carrabassett Valley (the “Municipality”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act, codified in 22 M.R.S. Ch. 558-C, authorizes the use, possession, cultivation and transfer of marijuana for medical purposes, and authorizes qualifying patients to obtain medical marijuana from other qualifying patients, registered caregivers, or registered dispensaries, as those terms are defined by 22 M.R.S. § 2422; and
- (2) On July 9, 2018, the Maine Legislature enacted PL 2017, c. 452 (LD 1539), *An Act to Amend Maine’s Medical Marijuana Law*, which includes express authorization for the operation of retail stores by registered caregivers to sell marijuana to qualifying patients, as well as authorization for the operation of medical marijuana manufacturing facilities, medical marijuana testing facilities, and six additional registered medical marijuana dispensaries; and
- (3) On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 238), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregivers, registered dispensaries, testing facilities, and manufacturing facilities; and
- (4) The unregulated location and operation of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the Municipality raises legitimate and substantial questions about the impact of such activity on the Municipality, including questions as to compatibility with existing land uses and developments in the Municipality; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (5) As a result of the foregoing issues, the location and operation of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the Municipality have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (6) The Municipality currently has no regulations governing medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities; and
- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of medical marijuana

retail stores, registered dispensaries, testing facilities, and manufacturing facilities in the Municipality; and

- (8) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the Municipality as follows:

Section 1. Moratorium. The Municipality does hereby declare a moratorium on the location, operation, permitting, approval, or licensing of any and all new medical marijuana retail stores, registered dispensaries, testing facilities, manufacturing facilities within the municipality and any related commercial cultivation.

No person or organization shall develop or begin operation of a medical marijuana retail store, registered dispensary, testing facility, or manufacturing facility within the Municipality on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana retail store, registered dispensary, testing facility, or manufacturing facility.

Section 2. Definitions. For purposes of this ordinance, the following terms have the following meanings.

Medical marijuana retail store means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, that is used by a registered caregiver to offer marijuana for sale to qualifying patients.

Marijuana means the leaves, stems, flowers, seeds and other plant material harvested from a plant of the genus *Cannabis*, including, but not limited to, *Cannabis sativa*, *Cannabis indica*, and *Cannabis ruderalis* or their hybrids or seeds of those plants. "Marijuana" includes any product derived from any marijuana plant or plant material, including, but not limited to marijuana concentrate and marijuana products.

Registered dispensary means an entity registered under the Maine Medical Use of Marijuana act that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Testing facility means a public or private laboratory that is authorized under the Maine Medical Use of Marijuana Act to analyze contaminants in and the potency and cannabinoid profile of marijuana samples.

Manufacturing facility means a facility or person engaged in the production, blending, infusing, compounding, or other preparation of marijuana, marijuana concentrate, or marijuana product for medical use, including, but not limited to, extraction or preparation by means of chemical synthesis.

Section 3. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any proposed medical marijuana retail store, registered dispensary, testing facility, and manufacturing facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 4. Conflicts/Savings Clause. Any provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any medical marijuana retail store, registered dispensary, testing facility, or manufacturing facility is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

This certifies to the Municipal Clerk of Carrabassett Valley that the within ordinance is a true copy of an ordinance entitled 'Municipality of Carrabassett Valley Moratorium Ordinance Regarding Medical Marijuana Retail Stores, Dispensaries, Testing Facilities, and Manufacturing Facilities' to be acted upon by voters at a Town Meeting to be held on _____, 2018.

Dated: _____, 2018

Municipal Officers of Carrabassett Valley

Robert Luce

Karen Campbell

John "Jay" Reynolds

Lloyd Cuttler

John Beaupre