

**An Ordinance to Amend the Zoning Ordinance of the Town of Dayton
to Prohibit Retail Marijuana Uses and to Permit Medical Marijuana Uses
Within the Town of Dayton**

NOTE: Proposed additions to existing Code sections are underlined.
Proposed deletions of existing Code sections are ~~crossed out~~.
Other sections of the Ordinance are unchanged.

The Town of Dayton hereby ordains and enacts “An Ordinance to the Zoning Ordinance of the Town of Dayton to Prohibit Retail Marijuana Uses and to Permit Medical Marijuana Uses Within the Town of Dayton

ARTICLE 4: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

4.2 DEFINITIONS

AGRICULTURE

The commercial use of land for the purpose of growing plants, crops trees and other agricultural, or horticultural purposes, or raising farm animals or processing and selling farm products. Agricultural does not include forest management and timber harvesting activities. Agriculture does not include the growing, production, testing, sale or processing of marijuana.

MARIJUANA

As defined in State Administrative Rules 10-144 CMR Chapter 122, § 1.17.

MARIJUANA PARAPHERNALIA

Marijuana paraphernalia shall be defined in the same way as defined by the Maine Department of Health and Human Services in its Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, § 1.27.

MEDICAL MARIJUANA

Marijuana specifically permitted pursuant to the Maine Medical Use of Marijuana Act.^[2]

MEDICAL MARIJUANA CAREGIVER

As defined in State Administrative Rules, 10-144 CMR Chapter 122, § 1.31, "Primary Caregiver." A person who is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with the Maine Medical Use of Marijuana Act.^[2] A caregiver may cultivate and grow medical marijuana within a permitted Medical Marijuana Caregiver Growing Facility or within the caregiver's primary year-round residence.

MEDICAL MARIJUANA CAREGIVERS, GROWING FACILITY

A building used for cultivating, processing, testing, and/or storing of medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver's primary year-round residence or their qualifying patient's primary year-round residence, and which is located in an Industrial Commercial district. The facility shall not contain more than three separate licenses. The building may have patient rooms within the building separate from plant cultivation and processing.

MEDICAL USE

Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of medical marijuana or paraphernalia relating to the administration of medical marijuana to treat or alleviate a patient's debilitating medical condition or systems associated with the qualifying patient's debilitating medical condition, 10-144 CMR Chapter 122, § 1.23.

REGISTERED MEDICAL MARIJUANA DISPENSARY

A not-for-profit entity registered pursuant to the Maine Medical Use of Marijuana Program that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the registered marijuana dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. Accessory uses are limited to commercial kitchen facilities for preparing food, drinks, tinctures, and balms containing medical marijuana; counseling services for medical marijuana patients, alternative therapies for medical marijuana patients, such as massage and acupuncture, and the sale of medical marijuana delivery appliances.

REGISTERED MEDICAL MARIJUANA DISPENSARY, GROW-ONLY

A not-for-profit entity registered under 22 M.R.S.A. §2422, Subdivision 6, that possesses and cultivates marijuana for medical use in conjunction with a "registered dispensary" or a "registered dispensary, non-growing," at another site, but which does not dispense medical marijuana. Accessory uses are limited to commercial kitchen facilities for preparing food, drinks, tinctures, and balms containing medical marijuana.

REGISTERED MEDICAL MARIJUANA DISPENSARY, NON-GROWING

A not-for-profit entity registered under 22 M.R.S.A. §2422, Subdivision 6, that acquires, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. The cultivation must take place off-site, and if in Dayton, at a "registered dispensary" or "registered dispensary grow-only." Accessory uses are limited to commercial kitchen facilities for preparing food, drinks, tinctures, and balms containing medical marijuana; counseling services for medical marijuana patients; alternative therapies for medical marijuana patients such as massage and acupuncture; and the sale of medical marijuana delivery appliances.

RESEARCH AND TESTING FACILITY

A business in which new products or processes are created and studied. Research and development facility does not include the growing, production, testing, sale or processing of marijuana.

RETAIL MARIJUANA

Marijuana that is cultivated, manufactured, distributed or sold by a retail marijuana establishment or retail marijuana social club. Retail marijuana is prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA CULTIVATION FACILITY

A facility or an entity licensed to cultivate, prepare and package retail marijuana and to sell retail marijuana to retail marijuana establishments and retail marijuana social clubs. Retail marijuana cultivation facilities are prohibited in the Town of

Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA ESTABLISHMENT

Includes retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities. Retail marijuana establishments are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA PRODUCT

Concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY

A facility or an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs. Retail marijuana products manufacturing facilities are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA SOCIAL CLUB

A facility or an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. Retail marijuana social clubs are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA STORE

A facility or an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. Retail marijuana stores are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4); as amended.

RETAIL MARIJUANA TESTING FACILITY

A facility or an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products. Retail marijuana testing facilities are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

5.3 Table of Land Uses:

Land uses permitted in each District other than the Saco River Buffer District, in conformance with the Performance Standards of Article 5, are shown in the following table. Uses permitted in the Saco River Buffer District are those permitted by the most recent Saco River Corridor Commission's regulations.

Key:

P Permit from Code Officer after Site Review N Not Permitted

PB Requires Planning Board Review

* Subject to Specific Performance Standards

Proposed Use	<u>Ordinance Ref</u>	<u>Village</u>	<u>Resource Protection</u>	<u>Shoreland Overlay</u>	<u>Mixed Use</u>	<u>Rural Forest</u>	<u>Rural Fields</u>	<u>Critical Rural</u>	<u>Commercial Industrial</u>
Accessory Structures	5.4.(2)	P	PB	PB	P	P	P	P	P
Active Outdoor Recreation		PB	PB	PB	PB	PB	PB	PB	PB
Agriculture, Nurseries, Gardening	7.5	P	P	P	P	P	P	P	P
Amusement centers	7.1	PB	N	N	PB	PB	PB	N	PB
Animal Husbandry	7.11	N	N	N	P	P	P	PB	PB
Auto Junk Yard*		N	N	N	PB	PB	PB	N	PB
Auto Repair Garage*		N	N	N	PB	PB	PB	N	PB
Auto Service Station*		N	N	N	PB	PB	PB	N	PB
Banks		PB	N	N	P	PB	PB	N	P
Bed and breakfast	7.2	PB	N	N	PB	PB	PB	PB	N
Boat and RV Sales and Service		N	PB	PB	PB	N	N	N	P
Bottle Club		N	N	N	PB	PB	PB	PB	PB
Bulk Fuel Storage		N	N	N	N	N	N	N	PB
Bus. and Professional Offices(1)		PB	N	N	PB	PB	PB	PB	P

<u>Proposed Use</u>	<u>Ordinance Ref</u>	<u>Village</u>	<u>Resource Protection</u>	<u>Shoreland Overlay</u>	<u>Mixed Use</u>	<u>Rural Forest</u>	<u>Rural Fields</u>	<u>Critical Rural</u>	<u>Commercial Industrial</u>
Bus. and Professional Offices(2)		N	N	N	PB	PB	PB	N	P
Campgrounds	7.3	N	PB	PB	PB	PB	PB	PB	N
Car Wash		PB	N	N	PB	PB	PB	PB	PB
Cemeteries		PB	N	N	PB	PB	PB	PB	N
Churches		PB	N	N	PB	PB	PB	PB	PB
Cluster Development	7.17	N	N	N	N	PB	PB	PB	N
Commercial Recreation	7.6	N	N	N	PB	PB	PB	PB	N
Daycare Facility		PB	N	N	PB	PB	PB	PB	N
Daycare Home		PB	N	N	PB	PB	PB	PB	N
Duplexes	5.4 (1)	P	N	N	P	P	P	P	N
Earth Moving Activities	7.7	N	N	N	PB	PB	PB	N	PB
Elderly Housing		PB	N	N	PB	PB	PB	N	N
Flea Market		N	N	N	PB	PB	PB	N	PB
Forestry		P	P	P	P	P	P	P	P
Funeral Homes		N	N	N	PB	PB	PB	N	PB
Golf Course		N	PB	PB	PB	PB	PB	PB	N
Home Occupations*	7.7	P	N	P	P	P	P	P	N
Individual Private campsites	7.4	N	P	P	P	P	P	P	N
Industrial1		PB	N	N	PB	PB	PB	PB	PB
Industrial2		N	N	N	PB	PB	PB	PB	PB
Inn	7.10	PB	N	N	PB	PB	PB	PB	N

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Kennels		PB	N	PB	PB	PB	PB	N	N
Libraries, Museums		PB	N	N	PB	PB	PB	PB	PB
Manufacturing		N	N	N	PB	PB	PB	N	PB
<u>Medical Marijuana Caregiver</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
<u>Medical Marijuana Caregivers, Growing Facility</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
Medical Offices & Clinic		N	N	N	PB	PB	PB	PB	PB
Mobile Home Parks*	7.13	N	N	N	PB	PB	PB	N	N
Motels-Hotels	7.10	PB	N	N	PB	PB	PB	PB	PB
Motor Vehicle Sales		N	N	N	N	N	PB	N	PB
Multi-Family Dwellings*	7.14	PB	N	N	PB	PB	PB	PB	N
Municipal Uses		PB	PB	PB	PB	PB	PB	PB	PB
Neighborhood Convenience Store		PB	N	N	PB	PB	PB	PB	PB
Nursing Homes		PB	N	N	PB	PB	PB	PB	N
Open Space		P	P	P	P	P	P	P	P
Passive Outdoor Recreation		P	P	P	P	P	P	P	N
Personal Services1		PB	N	N	PB	PB	PB	PB	PB
Personal Services2		N	N	N	PB	PB	PB	PB	PB
Private Clubs		N	N	N	PB	PB	PB	N	N
Public and Private Parks		P	PB	PB	P	P	P	P	N
Public Utilities		N	N	N	PB	PB	PB	N	PB
<u>Registered Medical Marijuana Dispensary</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>

Proposed Use	Ordinance Ref	Village	Resource Protection	Shoreland Overlay	Mixed Use	Rural Forest	Rural Fields	Critical Rural	Commercial Industrial
<u>Registered Medical Marijuana Dispensary, Grow Only</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
<u>Registered Medical Marijuana Dispensary, Nongrowing</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
Research and Testing Facilities		N	N	N	PB	PB	PB	N	PB
Restaurants	7.15	PB	N	N	PB	PB	PB	N	N
Restaurant Drive-In		PB	N	N	PB	PB	PB	N	PB
Restaurants Fast Food		PB	N	N	PB	PB	PB	N	N
Retail Marijuana Establishment		N	N	N	N	N	N	N	N
Retail Marijuana Social Club		N	N	N	N	N	N	N	N
Retail Marijuana Testing Facility		N	N	N	N	N	N	N	N
Retail Stores (1)		PB	N	N	PB	PB	PB	N	PB
Retail Stores (2)		N	N	N	PB	PB	PB	N	PB
Schools- Public or Private	7.16	PB	N	N	PB	PB	PB	PB	N
Seasonal Farm Stands		P	P	P	P	P	P	P	P
Signs*	6.13	P	N	N	P	P	P	P	P
Single Family Dwelling		P	N	N	P	P	P	P	N
Spreading/Storage of Sludge		N	N	N	P	P	P	P	N
Transmission Towers		N	N	N	PB	PB	PB	PB	PB

Proposed Use	Ordinance Ref	Village	Resource Protection	Shoreland Overlay	Mixed Use	Rural Forest	Rural Fields	Critical Rural	Commercial Industrial
Veterinary Clinic	7.11	N	N	N	PB	PB	PB	N	PB
Warehouse and Outdoor Storage		N	N	N	PB	PB	PB	N	PB
Wholesale Business		N	N	N	PB	PB	PB	N	PB
Yard Sales		Y	Y	Y	Y	Y	Y	Y	Y
Uses similar to permitted uses		P	P	P	P	P	P	P	P
Uses similar to conditional uses		PB	PB	PB	PB	PB	PB	PB	PB
Uses similar to prohibited uses		N	N	N	N	N	N	N	N
Notes									
1) 2500 Sq. Ft. or less or 6 employees or less									

**ARTICLE VII: PERFORMANCE STANDARDS,
SPECIFIC ACTIVITIES AND LAND USES:**

- 7.1 Amusement centers
- 7.2 Bed and Breakfast
- 7.3 Campgrounds and Tenting Grounds
- 7.4 Individual Private Campsites
- 7.5 Agriculture
- 7.6 Commercial Recreation Facility
- 7.7 Earth Material Removal
- 7.8 Home Occupations
- 7.9 Ground Water/Spring Water Extraction and/or Storage
- 7.10 Hotels Motels Inns
- 7.11 Kennels and Veterinary Hospitals
- 7.12 Manufactured Housing
- 7.13 Mobile Home Parks
- 7.14 Multi-Family Developments and Condominiums
- 7.15 Restaurants
- 7.16 Schools Colleges, Churches Fraternal Organizations, and Not for Profit Clubs
- 7.17 Planned Unit Development, and Cluster Development
- 7.18 Accessory Dwelling Units (ADU)
- 7.19 Watercourse Alteration or Relocation
- 7.20 Parking Areas
- 7.21 Roads and Driveways
- 7.22 Essential Services
- 7.23 Clearing or Removal of Vegetation for Activities Other than Timber Harvesting
- 7.24 Hazard Trees, Storm Damaged Trees, Dead Tree Removal
- 7.25 Exemptions to Clearing and Vegetation Removal Requirements
- 7.26 Revegetation Requirements
- 7.27 Archaeological Sites
- 7.28 Medical Marijuana

7.28 Medical Marijuana

- A. Medical Marijuana Caregivers, Growing Facility; Registered Medical Marijuana Dispensary; Registered Medical Marijuana Dispensary, Grow-Only; and Registered Medical Marijuana Dispensary, Nongrowing are permitted subject to the following performance standards, in addition to the requirements of the districts in which Medical Marijuana uses are located:
1. Notwithstanding any other provision of the Dayton Ordinances, all medical marijuana uses shall be reviewed as conditional uses by the Dayton Planning Board.
 2. Medical Marijuana uses must meet all of the standards and conditions imposed by the State of Maine and DHHS issued under the aegis of the Maine Medical Use of Marijuana Program.
 3. Notwithstanding the Maine Department of Health and Human Services Rules Governing the Maine Medical Use of Marijuana Program, such uses shall be prohibited on parcels of land with a lot line located within 1,000 linear feet of the lot line of any preexisting public or private school facility; or any preexisting and licensed day-care center or day-care home.
 4. Any building involved in the cultivation, distribution and processing of marijuana shall be constructed with opaque windows or walls, so that the interior is completely screened from lot lines and from any person passing along the normal street boundaries of the lot on which it is located.
 5. All buildings shall be protected by use of fire suppression sprinkler systems or other effective fire suppression system approved by the Planning Board.
 6. All buildings shall have a Knox-Box® to allow entry by Fire Department personnel in the event of an emergency at the location.
 7. The property shall have at least one parking space per 1,000 square feet of gross floor area, and such additional parking as may be required by the Planning Board.
 8. No building shall be allowed to be constructed or occupied within 500 feet of an existing dwelling unit's lot lines.
 9. The building shall be constructed with a security system with recordable video surveillance. The Planning Board may require a chain link fence or solid fence, six feet in height, may be required surrounding the building(s) and parking area.. Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance.
 10. Operating hours of the property:
 - a. Dispensing of medical marijuana, products and materials shall not take place prior to 7:00 a.m. and later than 8:00 p.m. on any day.
 - b. Deliveries shall not take place prior to 7:00 a.m. and later than 8:00 p.m. on any day.
 11. Signs may not contain any visual depiction of marijuana or marijuana paraphernalia. Outdoor displays, window displays, or displays visible from the outside of the building intended to attract attention to or generate interest in the uses on the property shall be prohibited.

12. Vegetative buffers may be required by the Planning Board to create a visual screen or minimize odors.
13. The growing, cultivating, production, processing, testing, and/or storing of medical marijuana shall be located within a building. Said activities may not be conducted anywhere outside of a building.
14. Drive through, drive up, or window services are prohibited.
15. Offensive or harmful odors perceptible beyond the property boundary lines, either at ground or habitable elevations shall be prohibited
16. The owner(s) of a building intended for lease to a caregiver (growing) or a growing facility shall register with the Town Clerk's Office each year and apply for and receive a business license from the Town Clerk's Office prior to operation. Each lessee within said building shall apply for and receive a business license from the Town Clerk's Office. Failure to register and obtain a business license shall disqualify either an owner or lessee from operating in Dayton.
17. Annual safety inspections by the Fire Department and Code Enforcement Office shall be conducted.
18. Extraction of marijuana for concentrates, such as but not limited to oil, butter, wax, or shatter shall be permitted subject to compliance with NFPA(1) standards.

B. Medical Marijuana Caregivers are permitted within the caregivers primary year-round residence subject to the following performance standards, in addition to the requirements of the districts in which Medical Marijuana Caregiver use is located:

1. Notwithstanding any other provision of the Dayton Ordinances, all medical marijuana uses shall be reviewed as Conditional Uses by the Dayton Planning Board.
2. The caregiver shall be at least twenty-one (21) years of age;
3. The caregiver resides in the dwelling unit as his/her primary year-round residence in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statutes and/or administrative rules;
4. A caregiver who does not own his or her primary residence shall obtain notarized written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town, upon request.
5. Caregivers shall cultivate medical marijuana within an enclosed, locked building or within an outdoor area which is accessible only by the individual authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statute and/or administrative rules.
6. Medical Marijuana shall be distributed to medical marijuana patients within an enclosed building. Drive thru, drive-up or window service is prohibited.
7. Marijuana cultivation shall only be conducted in a contiguous area of not more than one-quarter (1/4) of the total square footage of the dwelling unit or one-hundred (100) square feet, whichever is greater. No medical

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.

8. Marijuana cultivation shall only be conducted in a primary residence which has functioning kitchens, bathrooms and bedrooms.
9. No exterior evidence of cultivation, including signs, shall be visible from a public way or area. Marijuana 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 (6) 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 ten (10) days of notification of the violation by the Town's Code Enforcement Officer.
10. Commercial sale of marijuana grown, cultivated, processed, and/or stored on a caregiver's residential property, except for members of the household and family members who are qualifying patients not residing in the household or as otherwise allowed under the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statute and/or administrative rules, and the sale of marijuana paraphernalia is prohibited.
11. Accessory uses such as preparing food, drinks, tinctures, and balms containing medical marijuana; counseling services for medical marijuana patients **are permitted. Alternative therapies for medical marijuana patients such as massage and acupuncture and the sale of medical marijuana delivery appliances is prohibited.**
12. Dispensing of medical marijuana to medical marijuana patients shall not take place prior to 7:00 a.m. and later than 8:00 p.m. on any day.
13. Caregivers shall register with the Town Clerk's Office each year and apply for and receive a business license from the Town Clerk's Office prior to operation. Failure to register and obtain a business license shall disqualify either an owner or lessee from operating in Dayton.
14. Electrical Service shall not be increased beyond 200 amps.
15. Annual safety inspections by the Fire Department and Code Enforcement Office may be conducted.
16. **Extraction of marijuana for concentrates, such as but not limited to oil, butter, wax, or shatter shall be permitted provided butane or similarly flammable and hazardous industrial solvents are not utilized.**