

# MARIJUANA ORDINANCE

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**TOWN OF OWLS HEAD**

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Adopted - August 28, 2017

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**SECTION 1. TITLE**

This Ordinance shall be known as the “Marijuana Ordinance for the Town of Owls Head”.

**SECTION 2. AUTHORITY**

This Ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A., c. 417.

**SECTION 3. PURPOSE**

The purpose of this Ordinance is to minimize any adverse public safety and health impacts that may result from the home cultivation of marijuana and from allowing retail marijuana establishments to operate in the Town’s jurisdictional limits.

**SECTION 4. CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

**SECTION 5. VALIDITY**

In the event that any part or provision of this Ordinance is invalidated, such decision shall not invalidate any other section or provision of this Ordinance. In all circumstances, this Ordinance is presumed valid, unless ruled otherwise by an Appeals Board or court of competent jurisdiction.

**SECTION 6. AMENDMENTS**

This Ordinance may be amended by a majority vote of any legal Town Meeting when such amendment is published in the warrant calling for the meeting, and is not in conflict with State Laws.

Each Ordinance or amendment shall be on file with the Town's clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at a reasonable cost, at the expense of the person making the request.

**SECTION 7. AVAILABILITY**

A copy of this Ordinance shall be filed with the Town's clerk, posted on the Town's website, and shall be accessible to any member of the public. Copies shall be made available to the public, at reasonable cost, at the expense of the person making the request.

**SECTION 8. DEFINITIONS**

For the purposes of this Ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2422.

**SECTION 9. PROHIBITION OF RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS**

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana products testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this Ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A., c. 558-C.

**SECTION 10. HOME CULTIVATION**

In addition to the restrictions put upon outdoor home cultivation of marijuana as set forth in 7 M.R.S.A. § 2452, the following restrictions shall apply:

1. A maximum of fifty (50) square feet of outdoor cultivation space shall be used.
2. Setback for outdoor cultivation area shall be no closer to the property lines than land use setbacks specify for the lot size and cultivation area must be closer to grower's residence than to neighbor's residence.

**SECTION 11. EFFECTIVE DATE; DURATION**

This Ordinance shall take effect immediately upon adoption at a Town Meeting and shall remain in effect until it is amended or repealed.

**SECTION 12. PENALTIES**

Whoever violates any of the provisions of the foregoing Sections shall be subject to a civil penalty of not less than one hundred dollars (\$100) per day and not more than twenty-five hundred dollars (\$2,500) per day, plus attorney's fees and costs. In all other respects, assessment of penalties under this Ordinance shall be in accordance with the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

**SECTION 13. APPEALS**

Any person or entity may request a variance from the requirements of this Ordinance by filing an appeal to the Board of Appeals in accordance with the process outlined in Section 1.6 of the Town's Zoning Ordinance.

**SECTION 14. CERTIFICATION OF ADOPTION**

We hereby attest that this is a true copy of the Marijuana Ordinance for the Town of Owls Head, Maine, duly approved at a Town Meeting held on: 08/28/2017

Selectmen: Linda Post

Bill Mans

Thomas Von Melde

Attest to: Susan A. Curran  
Town Clerk

Date: 8/28/17