

CHAPTER 56

SECTION 56-01

**TOWN OF FREEPORT ORDINANCE ESTABLISHING A MORATORIUM
ON MEDICAL MARIJUANA PRODUCTION FACILITIES**

WHEREAS, the cultivation and production of medical marijuana is an authorized, regulated program of the State of Maine; and

WHEREAS, the cultivation and production in a medical marijuana caregiver's residence or a qualifying patient's primary residence is allowed pursuant to the Maine Medical Use of Marijuana Act; and

WHEREAS, there has been an increasing number of requests regarding the establishment of commercial facilities for the cultivation and production of medical marijuana outside of a primary residence; and

WHEREAS, State law specifically authorizes municipalities to regulate cultivation and production of medical marijuana that is outside of a primary caregiver's or registered patient's primary residence as it relates to land use controls and regulations; and

WHEREAS, operations related to the cultivation and production of medical marijuana outside of an authorized primary residence raise a number of concerns related to the public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, security of the facilities, and odors that may create a public nuisance or hazard; and

WHEREAS, the Town's existing ordinances do not provide an adequate mechanism to regulate and control medical marijuana production facilities and are inadequate to prevent the potential for serious public harm from the future establishment of medical marijuana production facilities; and

WHEREAS, the Town needs a reasonable amount of time to study the land use implications of medical marijuana production facilities and to develop reasonable regulations governing their location and operation; and

WHEREAS, during the period of this Moratorium, the Town will work on developing appropriate land use regulations concerning medical marijuana production facilities; and

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S. § 4356, be it hereby ordained by the Town Council of the Town of Freeport, Maine, in Town Council assembled, as follows:

1. DEFINITIONS.

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

“Marijuana”: as defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17, “Marijuana.”

“Medical Marijuana”: Marijuana as allowed per the Maine Medical Use of Marijuana Act.

“Medical Marijuana Caregiver”: as defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.31, “Primary Caregiver.”

“Medical Marijuana Production Facility”: A facility used for cultivating, processing, 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 patient’s primary year-round residence.

2. APPLICABILITY AND PURPOSE.

This moratorium shall apply to medical marijuana production facilities, as defined above, that are proposed to be located within the Town of Freeport on or after the effective date of this Ordinance. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Ordinance applies to any application relating to the establishment or operation of a business or operation for a medical marijuana production facility, whether or not such application had become a “pending proceeding” as defined in 1 M.R.S.A. § 302 prior to the enactment of this Ordinance.

3. PROHIBITION.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Freeport shall accept, process or act upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, or any other approval relating to the establishment or operation of a business or operation for a medical marijuana production facility. No person shall establish or operate a business or operation for a medical marijuana production facility within the Town of Freeport that was proposed on or after the effective date of this Ordinance.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Freeport. Any person who violates Section 3 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless earlier extended, repealed or modified by the Freeport Town Council.

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.