

TOWN OF TURNER

Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance

ENACTED: MAY 22, 2021

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Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance

Section.1 Title:

This Ordinance shall be known and cited as the "Town of Turner Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance" and will be referred to hereinafter as "this Ordinance".

Section. 2 Applicability:

This Ordinance limits all subject Adult Use and Medical Marijuana businesses to the zoning districts specified under the Zoning Ordinance of the Town of Turner, Maine (Zoning Ordinance) Section 3.H Table of Uses, prescribes definitions of Adult Use and Medical Marijuana businesses, provides for permitting/licensing and regulation of Adult Use and Medical Marijuana businesses, and provides standards for Adult Use and Medical Marijuana businesses.

Section 3 Authority:

WHEREAS, implementing a system for the regulation of stores, cultivation, manufacturing, and testing for both Adult Use and Medical Marijuana, a controlled substance, is a complex function with significant administrative demands on the Town of Turner; and

WHEREAS, ensuring that possession and use of Adult Use and Medical Marijuana is limited to persons who are 21 years of age or older, except in the case of minors in possession of a Medical Marijuana Patient Card, is necessary to protect those who have not yet reached adulthood from the effects of irresponsible use of a controlled substance; and

WHEREAS, the Town of Turner believes that any production, processing, or selling of Adult Use and Medical Marijuana should be conducted in a safe and fair manner for the health, safety, and welfare of the community, which includes complying with provisions of all applicable laws and ordinances relating to Adult Use and Medical Marijuana throughout the Town of Turner; and

NOW THEREFORE, this Ordinance is adopted pursuant to the Marijuana Legalization Act, 28-B M.R.S.A. c. 1; Maine's Medical Marijuana laws and regulations, including but not limited to 22 M.R.S.A. c. 558-C; Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30-A M.R.S.A. §3001 et seq.); and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S.A. §4312 et seq.

Section 4 Purpose:

It is the purpose of this Ordinance to regulate Adult Use and Medical Marijuana businesses in order to promote the health, safety, and general welfare of the citizens of

Turner, and to establish reasonable and uniform regulations for the appropriate location of Adult Use and Medical Marijuana businesses in Turner.

Persons or entities wishing to establish an Adult Use or a Medical Marijuana business within the Town of Turner shall first obtain a permit/license from the Town of Turner Planning Board and Municipal Officers (hereinafter "the Municipal Officers") and shall be subject to the provisions of this Ordinance.

This Ordinance may not be construed to limit any privileges or rights of a qualifying patient, caregiver, or registered caregiver under Maine's Medical Marijuana laws and regulations, including but not limited to 22 M.R.S.A. c. 558-C, except that Medical Marijuana Stores operated by registered caregivers are subject to the provisions of this Ordinance.

Section 5 Conflict with Other Ordinances; Severability:

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

Section 6 Effective Date:

The effective date of this Ordinance, and the permitting/licensing of the establishment or operation of any Adult Use or Medical Marijuana Store, Adult Use or Medical Marijuana Cultivation Facility, Adult Use or Medical Marijuana Manufacturing Facility, or Adult Use or Medical Marijuana Testing Facility in Turner thereunder, shall be the date of adoption by the voters at a Town Meeting.

Section 7 Validity and Severability:

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Section 8 Repeal of Existing Ordinance:

Adoption of this Ordinance shall repeal on the effective date of this Ordinance the Medical Marijuana Establishment License for Registered Caregivers Ordinance adopted on April 6, 2019. This shall not prevent enforcement of the repealed Ordinance with respect to the time periods in which it was effective.

Section 9 Definitions:

For the purpose of this Ordinance, Adult Use Marijuana businesses, including Adult Use Marijuana Stores, Adult Use Marijuana Cultivation Facilities (including Adult Use Marijuana Nursery Cultivation Facilities), Adult Use Marijuana Manufacturing Facilities, and Adult Use Marijuana Testing Facilities, are defined as set forth in 28-B M.R.S.A. §102.

For the purpose of this Ordinance, Medical Marijuana Businesses, including Medical Marijuana Stores, Medical Marijuana Cultivation Facilities, Medical Marijuana Manufacturing Facilities, and Medical Marijuana Testing Facilities are either defined in Maine's Medical Marijuana Law Title 22 M.R.S.A. §2422 or are the medical equivalent of those Adult Use Marijuana Businesses listed in the previous paragraph.

"Marijuana Business": any Adult Use or Medical Marijuana business listed in the two preceding paragraphs.

"Medical Marijuana Stores" includes storefronts operated by registered caregivers and medical marijuana dispensaries.

"Cultivation or cultivate" Cultivation or cultivate means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other processing of marijuana for use or sale. Outdoor cultivation is cultivation outside of an enclosed building or structure. Indoor cultivation is cultivation inside an enclosed building or structure.

For convenience definitions referred to above from Title 28-B M.R.S.A. §102 and Title 22 M.R.S.A. §2422 as of the date of adoption of this Ordinance are attached in the appendix for convenient reference. If the definitions in Title 28-B M.R.S.A. §102 or Title 22 M.R.S.A. §2422 are changed by the State of Maine after the adoption of this Ordinance the attached copy of the definitions shall be automatically updated to match the State definitions.

Section 10 Permit/License Required:

No person may establish, operate, or maintain an Adult Use or Medical Marijuana business without first obtaining a permit/license from the Municipal Officers. This includes marijuana stores, cultivation facilities (only indoor cultivation facilities are permitted), manufacturing facilities and testing facilities. No permit/license issued under this Ordinance may be assigned or transferred to another entity. Any change in ownership or change in the officers of the permit/license holder requires a new permit/license. The new owners or officers of an Adult Use or Medical Marijuana business shall apply to the Town Manager or his designee for a new permit/license. Permits/Licenses are limited to the premises for which they are issued and are not transferable to another location. All permit/license holders who desire to relocate to a new location shall apply to the Town Manager or his designee for a new permit/license and if approved shall relinquish their permit/license for the previous location. The permit/license must be displayed in a conspicuous place in the Marijuana Business for which the permit/license is issued.

Any permit/license holder issued a permit/license under this Ordinance has the duty and responsibility to maintain updated and accurate information regarding all the information related to the permit/license as submitted during the application and approval process within ten (10) days of any change of status. Failure to provide and maintain current and accurate information may result in revocation of the permit/license holder's permit/license.

Permits/licenses are issued for a one (1) year period and must be renewed annually. The one-year period begins on the date the permit/license is issued by the Municipal Officers.

It is a violation of this Ordinance for any person to operate an Adult Use or Medical Marijuana business within the Town of Turner without a valid Adult Use or Medical Marijuana business permit/license issued by the Municipal Officers.

It is a violation of this Ordinance for any person to operate an Adult Use or Medical Marijuana business within the Town of Turner without a valid Adult Use or Medical Marijuana business permit/license issued by the State pursuant to State Adult Use and Medical Marijuana laws and regulations.

Pursuant to 28-B M.R.S.A §402, the Town has established the following permit/license limits for Adult Use and Medical Marijuana Stores – In total there shall be no more than Ten (10) permits/licenses issued during any given time, and within that Ten (10) permit/license limit there shall be no more than four (4) permits/licenses issued for Adult Use Marijuana Stores during any given time.

Whenever a permit/license expires or is not renewed, or the Municipal Officers declines to renew a permit/license, for an Adult Use or Medical Marijuana Store permit/license, applications may be accepted and reviewed in accordance with the procedure adopted by the Town for new permits/licenses, so long as the total number of permits/licenses does not exceed the number allowed in this Ordinance.

In the event of the proposed sale of an Adult Use or Medical Marijuana Store the tentative purchaser shall be given preference to obtain a new permit/license to replace the seller's permit/license within ninety (90) days prior to the date of the sale.

The tentative purchaser shall file an application with the required application fee and provide all the application information required in this Ordinance. If the application is approved the Municipal Officers shall specify that the permit/license for that Store is contingent on the sale being completed and the Town's receipt of permit/license fees.

The holder in good standing of a permit/license for a Medical Marijuana Store located in the following districts – Commercial 1 and 2, and Village Districts – may exchange their permit/license with a \$XXX fee, as long as the exchange is within the limit of the number of permits/licenses for an Adult Use Marijuana Store allowed under the permit/license cap in this Ordinance for Adult Use Marijuana Stores.

The holder in good standing of a permit/license for an Adult Use Marijuana Store located in the following districts – Commercial 1 and 2, and Village District – may exchange their permit/license for a Medical Marijuana Store permit/license with a \$XXX fee, as long as the exchange does not increase the number of existing permits/licenses.

All Adult Use and Medical Marijuana Stores must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer, on the day the order is made, pays for, and picks up such orders in the store.

Adult Use and Medical Marijuana Stores may not use vending machines for sales, may not have "drive-through" or "drive-up" window-serviced sales, and may not have internet-based sales with credit/debit card payment and delivery by USPS, UPS, FedEx, DHL, or any other global or local delivery service or courier, except that Medical Marijuana Registered Caregivers may provide home delivery services.

Section 11 Application Procedure:

A. Application

An application for a permit/license must be made on the form provided by the Town. The application shall first be submitted to the Planning Board for review for compliance with the Zoning Ordinance and other applicable land use regulations and with this Ordinance. If a Site Plan Review has not been previously completed and approved the applicant shall also complete and submit a Site Plan Review application for review and approval by the Planning Board. If a Site Plan Review has been completed and approved the applicant shall submit a copy of the Findings of Fact and Conclusion of Law. Once review and approval by the Planning Board is complete then the application documents and the Findings of Fact and Conclusion of Law shall be submitted to the Municipal Officers by the applicant for review and approval of the permit/license.

The applicant is advised that the issuance of the permit/license by the Municipal Officers is subject to their approval and may be denied. The Municipal Officers shall review the applications received on a first come first serve basis. Permits/Licenses are limited by the total number of permits/licenses allowed in this Ordinance.

B. Public Hearing

The Planning Board shall hold a Public Hearing on the pending application. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the Public Hearing and posted at the Town Office.

C. Applicants Qualified

All applicants must be qualified according to the provisions of this Ordinance. The applicant shall provide the information required for the Planning Board and the Municipal Officers to determine whether the applicant meets the qualifications established in this Ordinance.

D. Adult Use Marijuana Stores

Medical Marijuana Stores permitted/licensed by the Municipal Officers before March 31, 2021 will be given first preference to exchange their Medical Marijuana Store permit/licenses for an Adult Use Marijuana Store permit/license, once this Ordinance is approved at a Town Meeting and the process to submit applications is opened by the Municipal Officers. The Municipal Officers shall establish the opening date and closing date within which applications must be submitted. The Municipal Officers shall provide at least a six (6) month notice before the process to exchange Medical Marijuana Store

permits/licenses for Adult Use Marijuana Store permits/licenses is opened to Medical Marijuana Store owners with permits/licenses that were approved on or before March 31, 2021. If five (5) or more Medical Marijuana Stores, who meet the above requirements submit requests to exchange permits/licenses for Adult Use permits/licenses then each application will be assigned a number and the numbers will be drawn by lottery. The applications will be reviewed by the Planning Board in the order they were drawn by lottery until all available permits/licenses are approved by the Planning Board and issued by the Municipal Officers.

If all the available permits/licenses for Adult Use Stores are not approved and issued by the exchange process above, then the Municipal Officers shall with public notice establish an opening and closing date within which applications must be submitted to the Planning Board to apply for a permit/license. Public notice shall be as follows, notice of the opening and closing dates, as established by the Municipal Officers for new applications shall be posted in the Town Office at least thirteen (13) days before the opening date and published in a newspaper of general circulation in the municipality at least two (2) times with the date of the first publication at least twelve (12) days before the opening date and the 2nd publication at least seven (7) days before the opening date for new applications. If there are more applicants than permits/licenses available the Planning Board shall use the lottery method required in this Ordinance to determine the order in which, the applications will be reviewed for approval for a permit/license.

E Medical Marijuana Stores

When permits/licenses are available for Medical Marijuana Stores the Municipal Officers shall with public notice using the public notice process required above, open the Planning Board application process for Medical Marijuana Store permits/licenses. The Municipal Officers shall establish an opening and closing date for applications. If there are more applicants than there are available permits/licenses the Planning Board shall use the lottery method required in this Ordinance for determining the order in which, the applications will be reviewed for approval.

F. Applications to Establish an Adult Use or Medical Marijuana Business:

1. If the applicant who wishes to operate an Adult Use or Medical Marijuana business is a single individual, this person must sign the application for a permit/license. If the applicant who wishes to operate an Adult Use or Medical Marijuana business is more than one individual, each person who has an interest in the business must sign the application for a permit/license as applicant. Each applicant must be qualified as required in this Ordinance and each applicant shall be considered a permittee/licensee if a permit/license is granted.
2. The completed application for an Adult Use or Medical Marijuana Business permit/license shall contain the following information and shall be accompanied by the following documents:
 - a. If the applicant is an individual: The individual shall state their legal name and any aliases, and submit proof that they are at least twenty-one (21) years of age.

- b. If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.
- c. If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors, and principal stockholders are at least twenty-one (21) years of age.
- d. If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process and submit proof that all members are at least twenty-one (21) years of age.
- e. If the applicant intends to operate the Adult Use or Medical Marijuana Business under a name other than that of the applicant, they must state the business' name and submit the required registration documents.
- f. If the applicant or a potential employee has been convicted of criminal activity under State and/or federal law, they must list the specified criminal activity involved, and the date, place, and jurisdiction of each conviction.
- g. If the applicant has had a previous permit/license under the former Town of Turner Medical Marijuana Establishment License for Registered Caregivers Ordinance, this Ordinance or other similar Marijuana Business ordinances from another Town, City, or State denied, suspended or revoked, they must list the name and location of the Marijuana Business for which the permit/license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose permit/license has previously been denied, suspended or revoked, listing the name and location of the Marijuana Business for which the permit/license was denied, suspended, or revoked as well as the date of denial, suspension or revocation.
- h. If the applicant holds any other permits/licenses under this Ordinance or other similar Marijuana Business ordinance from another Town, City, or State and, if so, the names and locations of such other permitted/licensed businesses must also be provided.

- i. A copy of state permit/license issued by State of Maine to the applicant for the Marijuana Business.
- j. The classification of permit/license for which the applicant is filing.
- k. The location of the proposed Adult Use or Medical Marijuana Business, including a legal description of the property, and street address.
- l. The applicant's mailing address, residential address, telephone number and email address.
- m. Recent passport-style photograph(s) of the applicant(s).
- n. The applicant's driver's license and Social Security numbers.
- o. A drawing showing the configuration of the subject premises, that include building footprint, interior layout with a floor plan of the space to be occupied by the business, and parking plan. The drawing must be drawn to scale with marked dimensions and a north arrow.
- p. A copy of a Town Tax Map depicting: the subject property lines; the property lines of any preexisting public or private school within one thousand (1,000) feet of the subject property; and/or property within five hundred feet (500) used primarily for religious worship and related religious activities, and/or property used for licensed daycare uses under 10-148 CMR c 32, and/or recreational areas designated for use by children under eighteen (18) years in age, and/or areas designated as municipal "safe zones" pursuant to 30-A M.R.S.A §3253.
- q. A release for each applicant and for each officer, owner, manager, member, or partner of the applicant seeking a permit/license allowing the Town of Turner to obtain criminal records and other background information related to the individual.
- r. A statement as to the precise nature of the business with a description of the nature of all products and services offered to its customers.
- s. A description of the premises for which a permit/license is sought including a list of all equipment, parts and inventory used in the operation of the Marijuana Business.
- t. Evidence of an interest in the premises where the Marijuana Business will be located, together with the written consent of the owner of the premises for such use, if the applicant is not the owner.
- u. Evidence of all land use approvals required to operate the Marijuana Business or applications that have been filed and are pending for the required approvals, including but not limited to change of use permits, or approvals. Approvals may be applied for as part of the Site Plan Review process.

- v. An operator of a Marijuana Business shall prepare an Operations Manual and Safety Plan that shall be submitted with the application. The Operational and Safety Plan shall describe, at a minimum, production and building security, hours of operation, provisions and maintenance of ventilation and odor control systems, storage and use of hazardous materials, including but not limited to chemicals and gases, waste management, and contamination protocols. The Operations and Safety Manual shall be maintained at the facility and the Town of Turner Fire Department.
 - w. A Marijuana Business shall not dispose of waste and/or residue from the cultivation, processing, and storage of marijuana in an unsecured waste receptacle not in its possession and control.
 - x. The Marijuana Business's owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It is the permit/license holder's responsibility to ensure that everyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a permitted/licensed Marijuana Business is ordered to leave.
 - y. Evidence submitted by a licensed HVAC Engineer experienced with marijuana cultivation odor mitigation and filtration systems that the system designed for the indoor cultivation businesses will meet the odor mitigation requirements for the indoor cultivation facility.
3. Some portions of applications for an Adult Use or Medical Marijuana Business permit/license shall be kept confidential by the Town and used for administrative purposes only due to sensitive information contained therein such as Social Security numbers, etc., as allowed by FOAA (Freedom of Access Act).

G. Application, Permit/License Fees, and Escrow Account:

Application Fee

All applications must be submitted with a \$XXX application fee, except for exchange conversions in this Ordinance for which the fee is \$XXX. If an application is approved, the following permit/license fees must be paid before the issuance of a permit/license.

Planning Board Review Escrow Account

An Initial payment/deposit of \$750.00 is required for the Planning Board Review Escrow Account. These funds will be used by the Planning Board for expenses related to the review of the application. They may be used at the discretion of the Planning Board for, but are not limited to expenses related to the Town Planner, consulting fees for professional services, and attorney/legal expenses. The Planning Board may require additional funds to be deposited in the escrow account if expenses exceed the initial \$750.00 deposit. Any funds remaining after the process is complete will be returned to the applicant.

Permit/License Fee Schedule

- Medical Marijuana Store: Permit/License Fee: \$XXX
- Adult Use Marijuana Store: Permit/License Fee: \$XXX
- Adult Use Marijuana Manufacturing Facility: Permit/License Fee: \$XXX
- Medical Marijuana Manufacturing Facility – Permit/License Fee: \$XXX
- Adult Use or Medical Marijuana Testing Facility: Permit/License Fee \$XXX
- Marijuana Cultivation, Medical and/or Adult Use: Permit/License Fee \$XXX

The Municipal Officers shall have the authority to revise the annual permit/license fees, renewal fees, application fees, and the escrow account deposit after holding a public hearing.

Permit/License Renewals

Permits/Licenses are issued for a one (1) year period. Permit/License fees are for a one-year period from the date the permit/license is issued by the Municipal Officers. Permits/licenses must be renewed annually and the applicable fee paid. Permit/license holders shall submit a renewal application, on the form provided by the Town for renewal of their permit/license at least sixty (60) calendar days before the permit/license is due to expire. Any permit/license holder who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a permit/license is issued.

If an Adult Use or Medical Marijuana Store has not been open and in operation for at least six (6) months during the twelve (12) months period for which their permit/license was issued, at the time of permit/license renewal without good cause than the permit/license shall not be renewed.

Renewals of issued permits/licenses shall be denied by the Municipal Officers and an issued permit/license may be suspended or revoked by the Municipal Officers after notice and public hearing, if the permit/license holder:

1. Fails to meet the requirements of this Ordinance,
2. Has had a permit/license for a Marijuana Business revoked by a municipality or by the State,
3. Has not acquired all necessary State and Town approvals prior to the issuance of the permit/license,
4. Has been convicted of a disqualifying drug offense; or
5. Has provided false or misleading information in connection with the permit/license application.

Number of Permits/Licenses per Owner

No single person, group of persons, partnerships, corporation, limited liability company, may possess more than one permit/license for an Adult Use or Medical Marijuana Store in Turner.

Section 12 Standards for Permit/License Review:

A. General

1. Adult Use and Medical Marijuana Businesses, including Adult Use and Medical Marijuana Stores, indoor Cultivation Facilities, Manufacturing Facilities or Testing Facilities, may only exist and operate in the districts listed in the Zoning Ordinance Table of Uses, Section 3.H and as further restricted below in subsection 2(a & b).
2. Adult Use and Medical Marijuana Businesses may not be operated on property located within:
 - a. One thousand (1,000) feet of the property line of a preexisting public or private school (K-12) per 28-A M.R.S.A §402.2. A; and/or
 - b. Five hundred (500) feet of the property line of: property used primarily for religious worship and related religious activities; property used for licensed daycare use under 10-148 CMR c. 32; recreational areas designated for use by children up to eighteen (18) years in age; or areas designated as municipal "safe zones" pursuant to 30-A M.R.S. §3253.

Required distances under section 2 (a & b) above shall be measured as the most direct, level, shortest, straight-line distance between the structure for the Marijuana Business and the property line of the entities in 2 (a & b) listed above.

3. Adult Use and Medical Marijuana Stores may be co-located with an indoor Cultivation Facility and operated within the same building, structure, or portion thereof, if all State Laws, and local ordinance and application requirements are met.
4. The sale or offering for sale of Medical Marijuana and/or Medical Marijuana products under permit/license and the sale or offering for sale of Adult Use Marijuana and/or Adult Use Marijuana products under permit/license within the same facility or building by the same licensee is prohibited per 28-B M.R.S.A §504. (5).
5. Medical Marijuana Stores permitted/licensed by the Town of Turner in compliance with Maine's Medical Marijuana laws and regulations and the Town's Medical Marijuana Establishment Ordinance at the time this Ordinance is adopted may retain their permit/license and apply for annual permit/license renewals in the location for which they received a permit/license even if the total number of permitted/licensed Medical Marijuana Stores is greater than the number permitted in this Ordinance. However, no new permits/licenses shall be issued. Permits/licenses may be exchanged as long as the total number of permits/licenses do not increase.
6. Security measures at all Adult Use and Medical Marijuana Business premises shall include, at a minimum, the following:

- a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and
- b. Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and
- c. Exterior lighting that illuminates the exterior walls of the permitted/licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable provisions of the lighting performance standards in the Town of Turner Zoning Ordinance; and
- d. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and
- e. Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

7. Ventilation

Marijuana Businesses, including Adult Use and Medical Marijuana Stores are required to be in compliance with odor and air pollution standards established by State statute or ordinance or as a condition of approval by the Planning Board. Indoor cultivation businesses shall have odor mitigation and filtration systems designed by a licensed HVAC Engineer experienced with marijuana cultivation odor mitigation and filtration.

8. Marijuana Manufacturing Businesses:

A Marijuana Manufacturing Business applicant must provide specific information about the extraction equipment to be used on the permitted/licensed premises, including how all fire and electrical standards will be met. Marijuana Manufacturing business permit/license holders shall not employ extraction methods that use fossil fuel-based solvents, including but not limited to butane, hexane, and propane.

9. Signs

All signs shall comply with the Town's Sign Ordinance. The applicant shall obtain a sign permit from the Code Enforcement Officer as required by the Sign Ordinance. The applicant shall submit evidence to the Code Enforcement Officer that the applicant is in compliance with the state sign requirements for Marijuana Businesses.

B. Right of Access/Background Check/Inspection

Every Adult Use and Medical Marijuana Business shall allow law enforcement officers to enter the premises at reasonable times for the purpose of checking

compliance with all applicable State laws. Owners or managers of Adult Use and Medical Marijuana Businesses shall submit emergency contact information and a diagram showing the floor plan of the Marijuana Business to the Code Enforcement Officer.

Marijuana Cultivation and Manufacturing businesses must comply with NFPA-1 Chapter 38 standards for *Marijuana Growing, Processing, or Extraction Facilities*.

C. Indemnification

By accepting a permit/license issued pursuant to this Ordinance, the permittee/licensee waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Adult Use or Medical Marijuana Business owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations.

By accepting a permit/license issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a permitted/licensed Adult Use or Medical Marijuana Business.

D. State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, cultivation, manufacture, distribution, or testing of Adult Use or Medical Marijuana or marijuana products, the additional or stricter regulation shall control the establishment or operation of any Adult Use or Medical Marijuana Store, Cultivation Facility, Manufacturing Facility, or Testing Facility in Turner.

Compliance with 28-B M.R.S.A c. 1, State laws and regulations pertaining to medical marijuana, and any other applicable State laws or regulations shall be deemed an additional requirement for issuance or denial of any permit/license under this Ordinance, and noncompliance with 28-B M.R.S.A c. 1 and any other applicable State law or regulation shall be grounds for revocation or suspension of any permit/license issued hereunder.

Section 13 Enforcement:

A. Violations

Any Adult Use or Medical Marijuana Business without a Town permit/license for same shall be a violation of this Ordinance. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the Code Enforcement Officer (CEO). Upon

such CEO notification, the Town may pursue fines and/or penalties as provided in this Ordinance.

B. Code Enforcement Officer (CEO)

1. If the CEO finds that any provision of this Ordinance is being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including but not limited to, discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the Municipal Officers and Planning Board and be maintained as a permanent record.
2. The CEO shall keep a complete record of all essential transactions of the CEO, including Adult Use and Medical Marijuana permit/license applications submitted, permits/licenses granted or denied, revocation actions, revocation of permits/licenses, appeals, court actions, violations investigated, violations found and fees collected.

C. Law Enforcement Officers

Law enforcement officers may at any reasonable time conduct on-site inspections to ensure compliance with all applicable laws.

D. Legal Actions

When the above notification and/or inspection actions do not result in the voluntary correction or abatement of the violation by the subject Adult Use or Medical Marijuana Business, the Municipal Officers, upon receiving written notification from the CEO, shall institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance.

The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.

E. Penalties/Fines

Any person, including but not limited to, an Adult Use or Medical Marijuana Business owner, a property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this Ordinance, or fails to comply with any of its requirements, shall be penalized as provided in this Ordinance.

In addition to revocation or suspension of a permit/license under this Ordinance, the violation of any provision of this Ordinance shall be punished, at the decision of the Municipal Officers by a fine of not less than \$500.00 nor more than \$2,500.00 for

each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

In addition to such penalty, the town may enjoin or abate any violation of this Ordinance. All fines and penalties, together with costs of prosecution of violations, which shall include the Town's cost and attorney's fees, and shall inure to the benefit of the Town. This section shall be enforced by the Municipal Officers, or their designee. Notice of violations by permit/license holders of other provisions of this Ordinance shall be provided to the Municipal Officers.

F. Appeals

Appeals may be made to the Maine Superior Court in accordance with Rule 80-B, Maine Rules of Civil Procedure.

Section 14 Amendments:

A. Initiation of Amendments: An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted.
2. Request of the Municipal Officers, provided a majority of the Board has so voted;
or
3. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.

B. Public Hearing

The Planning Board and Municipal Officers shall conduct a joint Public Hearing on the proposed amendment. Notification of the hearing shall be posted in the Town Office at least thirteen (13) days before the hearing and published in a newspaper of general circulation in the municipality at least two (2) times with the first date of the of the first publication at least twelve (12) days before the hearing and the date of the 2nd publication at least seven (7) days before the hearing. The Planning Board and Municipal Officers shall make a report including its recommendations on the proposed amendment within ten (10) calendar days after the public hearing has been closed.

C. Adoption of Amendment

An amendment of this Ordinance shall be adopted by a majority vote at a regular or special Town Meeting and unless otherwise specified therein, shall become effective upon adoption.

Appendix

Definitions

The definitions in this appendix are the state definitions included in the following state statutes: Title 22 M.R.S.A. Part 5 Chapter 558-C Maine Medical Use of Marijuana Section 2422 Definitions, and Title 28-B M.R.S.A. Chapter 1 Marijuana Legalization Act Section 102 Definitions.

The appendix is provided as a convenience only. The enclosed copy of the definitions is as of the date this Ordinance was adopted or updated. The state statutes must be referred for the most current definitions. As state definitions change those changes shall automatically become the current definitions for this Ordinance.

Amendments to Zoning Ordinance Table of Uses

		Zones									
	Ag/ Industrial	Comm. 1	Comm. 2	Village	Residential 1	Residential 2	Rural 1	Rural 2	Shoreland	Resource Protect.	
Adult Use Marijuana											
Store	No	PB	PB	PB	No	No	No	No	No	No	
Cultivation – Outdoor	No	No	No	No	No	No	No	No	No	No	
Cultivation – Indoor	PB	PB	PB	No	No	No	PB	PB	No	No	
Manufacturing	PB	PB	PB	No	No	No	No	No	No	No	
Testing	PB	PB	PB	No	No	No	No	No	No	No	
Medical Marijuana											
Store	No	PB	PB	PB	No	No	No	No	No	No	
Cultivation – Outdoor	No	No	No	No	No	No	No	No	No	No	
Cultivation – Indoor	PB	PB	PB	No	No	No	PB	PB	No	No	
Manufacturing	PB	PB	PB	No	No	No	No	No	No	No	
Testing	PB	PB	PB	No	No	No	No	No	No	No	

§102. Definitions**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 409, Pt. A, §6 (NEW).]

1. Adult use marijuana. "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

2. Adult use marijuana product. "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

3. Another jurisdiction. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states of the United States except Maine.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

4. Applicant. "Applicant" means a person that submits an application for a license under this chapter to the department for review that the department has not yet approved or denied.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

5. Batch. "Batch" means:

A. A specific quantity of adult use marijuana harvested during a specified period of time from a specified cultivation area within a cultivation facility; or [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. A specific quantity of adult use marijuana or adult use marijuana products produced during a specified period of time in a specified manufacturing area within a products manufacturing facility.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

6. Batch number. "Batch number" means a distinct group of numbers, letters or symbols, or any combination thereof, assigned to a specific batch of adult use marijuana by a cultivation facility or to a specific batch of adult use marijuana or adult use marijuana products by a products manufacturing facility.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

7. Business entity. "Business entity" means a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

8. Child-resistant. "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

9. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

10. Container. "Container" means a sealed package in which adult use marijuana or an adult use marijuana product is placed by a marijuana store prior to sale to a consumer and that meets all applicable packaging, labeling and health and safety requirements of this chapter and the rules adopted pursuant to this chapter.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

11. Criminal justice agency. "Criminal justice agency" has the same meaning as in Title 16, section 803, subsection 4.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

12. Cultivation or cultivate. "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

13. Cultivation facility. "Cultivation facility" means a facility licensed under this chapter to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

14. Department. "Department" means the Department of Administrative and Financial Services.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

15. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, except that "disqualifying drug offense" does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to the submission of an application for a license under this chapter; or [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. An offense that consisted of conduct that is authorized under chapter 3. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

16. Edible marijuana product. "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate. "Edible marijuana product" does not include an edible product containing "hemp" as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §17 (AMD).]

17. Flowering. "Flowering" means, with respect to a marijuana plant, the gametophytic or reproductive state of a female marijuana plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

18. Identity statement. "Identity statement" means the name of a business entity as it is commonly known and used in any advertising or marketing by the business entity.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

19. Immature marijuana plant. "Immature marijuana plant" means a marijuana plant that is not a mature marijuana plant or a seedling. "Immature marijuana plant" does not include hemp as defined in Title 7, section 2231, section 1-A, paragraph D.

[PL 2019, c. 528, §17 (AMD).]

20. Inherently hazardous substance. "Inherently hazardous substance" means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

21. Intoxication. "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or alcohol use.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

22. Law enforcement officer. "Law enforcement officer" has the same meaning as in Title 17-A, section 2, subsection 17.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

23. Licensed premises. "Licensed premises" means the premises specified in a license to operate a marijuana establishment within which the licensee is authorized under this chapter and the rules adopted pursuant to this chapter to cultivate, manufacture, distribute, test or sell adult use marijuana or adult use marijuana products.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

24. Licensee. "Licensee" means a person licensed pursuant to this chapter to operate a marijuana establishment.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

25. Limited access area. "Limited access area" means a building, room or other area within the licensed premises of a marijuana establishment where a licensee is authorized to cultivate, store, weigh, manufacture, package or otherwise prepare for sale adult use marijuana and adult use marijuana products in accordance with the provisions of this chapter and the rules adopted pursuant to this chapter.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

26. Manufacturing or manufacture. "Manufacturing" or "manufacture" means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.
[PL 2017, c. 409, Pt. A, §6 (NEW).]

27. Marijuana. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D or a marijuana product.
[PL 2019, c. 528, §18 (AMD).]

28. Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. "Marijuana concentrate" does not include resin extracted from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana or marijuana concentrate to prepare the marijuana product may not be included.
[PL 2019, c. 528, §19 (AMD).]

29. Marijuana establishment. "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility, a marijuana store or a sample collector licensed under this chapter.
[PL 2019, c. 676, §1 (AMD).]

30. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical

processes. "Marijuana extraction" does not include the process of extracting concentrate from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

31. Marijuana flower. "Marijuana flower" means the pistillate reproductive organs of a mature marijuana plant, whether processed or unprocessed, including the flowers and buds of the plant. "Marijuana flower" does not include marijuana trim or whole mature marijuana plants or the flower of hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

32. Marijuana plant. "Marijuana plant" means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling. "Marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

33. Marijuana product. "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate or a product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

34. Marijuana store. "Marijuana store" means a facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

35. Marijuana trim. "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed. "Marijuana trim" does not include any part of a hemp plant as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

36. Mature marijuana plant. "Mature marijuana plant" means a marijuana plant that is flowering. "Mature marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

37. Mother plant. "Mother plant" means a mature marijuana plant that is used solely for the taking of seedling cuttings. "Mother plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §19 (AMD).]

38. Municipality. "Municipality" means a city, town or plantation in this State that is not located within the unorganized and deorganized areas.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

39. Opaque. "Opaque" means, with respect to packaging or a container, that any product inside of the packaging or container cannot be seen from outside the packaging or container.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

40. Person. "Person" means a natural person or a business entity.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

41. Plant canopy. "Plant canopy" means the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

42. Caregiver. "Caregiver" has the same meaning as in Title 22, section 2422, subsection 8-A. [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2017, c. 452, §37 (REV).]

43. Products manufacturing facility. "Products manufacturing facility" means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

44. Propagation. "Propagation" means the process of reproducing marijuana plants through the use of marijuana seeds, cuttings or grafting.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

45. Qualifying patient. "Qualifying patient" means a person who possesses a valid certification for the medical use of marijuana pursuant to Title 22, section 2423-B.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

46. Registered dispensary. "Registered dispensary" has the same meaning as in Title 22, section 2422, subsection 6.

[PL 2017, c. 452, §28 (AMD).]

47. Registered caregiver. "Registered caregiver" has the same meaning as in Title 22, section 2422, subsection 11.

[PL 2017, c. 409, Pt. A, §6 (NEW); PL 2017, c. 452, §37 (REV).]

48. Resident. "Resident" means a natural person who:

A. **(TEXT EFFECTIVE UNTIL 6/1/21) (TEXT REPEALED 6/1/21)** Has filed a resident individual income tax return in this State pursuant to Title 36, Part 8 in each of the 4 years prior to the year in which the person files an application for licensure under this chapter. This paragraph is repealed June 1, 2021; [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. Is domiciled in this State; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

C. Maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

49. Sale or sell. "Sale" or "sell" means a transfer or delivery of marijuana or marijuana products for consideration.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

50. Sample. "Sample" means:

A. An amount of marijuana or an amount of a marijuana product provided to a testing facility by a marijuana establishment or other person for testing or research and development purposes in accordance with subchapter 6; [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. An amount of adult use marijuana or an amount of an adult use marijuana product collected from a licensee by the department for the purposes of testing the marijuana or marijuana product for product quality control purposes pursuant to section 512, subsection 2; [PL 2017, c. 409, Pt. A, §6 (NEW).]

C. An amount of adult use marijuana provided by a cultivation facility to another licensee for business or marketing purposes pursuant to section 501, subsection 8; [PL 2019, c. 676, §2 (AMD).]

D. An amount of adult use marijuana or an amount of an adult use marijuana product provided to another licensee by a products manufacturing facility for business or marketing purposes pursuant to section 502, subsection 6; [PL 2019, c. 676, §2 (AMD).]

E. An amount of marijuana or an amount of a marijuana product collected by a sample collector licensee and provided to a testing facility for testing consistent with the requirements of section 503-A; or [PL 2019, c. 676, §2 (NEW).]

F. **(TEXT EFFECTIVE UNTIL 10/1/21) (TEXT REPEALED 10/1/21)** An amount of adult use marijuana or an amount of an adult use marijuana product collected by a cultivation facility licensee, products manufacturing facility licensee or marijuana store licensee, or an employee of the licensee, and provided to a testing facility for testing consistent with the requirements of section 604-A.

This paragraph is repealed October 1, 2021. [PL 2019, c. 676, §2 (NEW).]
[PL 2019, c. 676, §2 (AMD).]

50-A. Sample collector. "Sample collector" means a person licensed under this chapter to collect samples of marijuana and marijuana products for testing and to transport and deliver those samples to a testing facility for testing.
[PL 2019, c. 676, §3 (NEW).]

51. Seedling. "Seedling" means a marijuana plant that is:

A. Not flowering; [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. Less than 6 inches in height; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

C. Less than 6 inches in width. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

52. Tamper-evident. "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

53. Testing or test. "Testing" or "test" means the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing" or "test" includes the collection of samples of marijuana and marijuana products for testing purposes, but does not include cultivation or manufacturing.

[PL 2019, c. 676, §4 (AMD).]

54. Testing facility. "Testing facility" means a facility licensed under this chapter to develop, research and test marijuana, marijuana products and other substances.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

55. THC. "THC" means tetrahydrocannabinol.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

56. Universal symbol. "Universal symbol" means an image developed by the department, and made available to licensees, that indicates that a container, package or product contains marijuana or contains or is a marijuana product.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

57. Unorganized and deorganized areas. "Unorganized and deorganized areas" has the same meaning as in Title 12, section 682, subsection 1.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

58. Visibly intoxicated. "Visibly intoxicated" means in a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual that clearly demonstrates the state of intoxication.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 2017, c. 409, Pt. A, §6 (NEW). PL 2017, c. 452, §28 (AMD). PL 2017, c. 452, §37 (REV). PL 2019, c. 12, Pt. B, §12 (AMD). PL 2019, c. 528, §§17-19 (AMD). PL 2019, c. 676, §§1-4 (AMD).

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Title 22: HEALTH AND WELFARE
Subtitle 2: HEALTH
Part 5: FOODS AND DRUGS
Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT

§2422. Definitions

(CONFLICT)

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [15 2009, c. 1, §5 (NEW).]

1. Cardholder. "Cardholder" means a person who has been issued and possesses a valid registry identification card.

[PL 2017, c. 452, §3 (AMD).]

1-A. Collective. "Collective" means an association, cooperative, affiliation or group of caregivers who physically assist each other in the act of cultivation, processing or distribution of marijuana for medical use for the benefit of the members of the collective.

[PL 2017, c. 452, §3 (AMD).]

1-B. Certified nurse practitioner. "Certified nurse practitioner" means a registered professional nurse licensed under [Title 32, chapter 31 \(./32/title32ch31sec0.html\)](#) who has received postgraduate education designed to prepare the nurse for advanced practice registered nursing in a clinical specialty in nursing that has a defined scope of practice and who has been certified in the clinical specialty by a national certifying organization acceptable to the State Board of Nursing.

[PL 2013, c. 516, §1 (NEW).]

1-C. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

[PL 2017, c. 409, Pt. E, §2 (NEW).]

1-D. Assistant. "Assistant" means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or marijuana testing facility in accordance with this chapter, whether as an employee or independent contractor.

[PL 2017, c. 452, §3 (NEW).]

1-E. Child-resistant. "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and [PL 2017, c. 452, §3 (NEW).]

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable. [PL 2017, c. 452, §3 (NEW).]

[PL 2017, c. 452, §3 (NEW).]

1-F. Caregiver retail store. "Caregiver retail store" means a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

[PL 2019, c. 217, §1 (NEW).]

2. Debilitating medical condition.

[PL 2017, c. 452, §3 (RP).]

2-A. Department. "Department" means the Department of Administrative and Financial Services.

[PL 2017, c. 409, Pt. E, §2 (NEW).]

3. Cultivation area. "Cultivation area" means an indoor or outdoor area used for cultivation in accordance with this chapter that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under this chapter.

[PL 2017, c. 452, §3 (AMD).]

3-A. Extended inventory supply interruption.

[PL 2017, c. 452, §3 (RP).]

3-B. Edible marijuana product. "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana. "Edible marijuana product" does not include an edible product containing hemp as defined in [Title 7, section 2231, subsection 1-A, paragraph D](#) ([../title7sec2231.html](#)).

[PL 2019, c. 528, §12 (AMD).]

3-C. Harvested marijuana. "Harvested marijuana" means the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products. "Harvested marijuana" does not include plant material harvested from hemp as defined in [Title 7, section 2231, subsection 1-A, paragraph D](#) ([../title7sec2231.html](#)).

[PL 2019, c. 528, §12 (AMD).]

4. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or [IB 2009, c. 1, §5 (NEW).]

B. An offense that consisted of conduct that would have been permitted under this chapter. [IB 2009, c. 1, §5 (NEW).]

[PL 2009, c. 631, §10 (AMD); PL 2009, c. 631, §51 (AFF).]

4-A. Incidental amount of marijuana.

[PL 2017, c. 452, §3 (RP).]

4-B. Mature marijuana plant. "Mature marijuana plant" means a flowering female marijuana plant. "Mature marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D ([../title7sec2231.html](https://www.mainelegislature.org/legis/statutes/7/title7sec2231.html)).

[PL 2019, c. 528, §13 (AMD).]

4-C. Medical provider. "Medical provider" means a physician, a certified nurse practitioner or a physician assistant.

[PL 2017, c. 452, §3 (AMD).]

4-D. Inherently hazardous substance.

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

4-E. Manufacture or manufacturing.

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

4-F. Manufacturing facility.

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

4-G. Marijuana concentrate.

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

4-H. Marijuana extraction.

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

4-I. Marijuana product.

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

4-J. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes. "Marijuana extraction" does not include the process of extracting concentrate from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D ([../title7sec2231.html](https://www.mainelegislature.org/legis/statutes/7/title7sec2231.html)).

[PL 2019, c. 528, §15 (AMD).]

4-K. Marijuana plant. "Marijuana plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants. "Marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D ([../title7sec2231.html](https://www.mainelegislature.org/legis/statutes/7/title7sec2231.html)).

[PL 2019, c. 528, §15 (AMD).]

4-L. Marijuana product. "Marijuana product" means a product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate or a product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D ([../title7sec2231.html](https://www.mainelegislature.org/legis/statutes/7/title7sec2231.html)).

[PL 2019, c. 528, §15 (AMD).]

4-M. Nonflowering marijuana plant. "Nonflowering marijuana plant" means a marijuana plant that is in a stage of growth in which the plant's pistils are not showing or the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the plant. "Nonflowering marijuana plant" does not include hemp as defined in [Title 7, section 2231, subsection 1-A, paragraph D \(./7/title7sec2231.html\)](#).

[PL 2019, c. 528, §15 (AMD).]

4-N. (CONFLICT: Text as enacted by PL 2019, c. 331, §2) Immature marijuana plant. "Immature marijuana plant" means a nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

[PL 2019, c. 331, §2 (NEW).]

4-N. (CONFLICT: Text as enacted by PL 2019, c. 528, §16) Immature marijuana plant. "Immature marijuana plant" means a nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches. "Immature marijuana plant" does not include hemp as defined in [Title 7, section 2231, subsection 1-A, paragraph D \(./7/title7sec2231.html\)](#).

[PL 2019, c. 528, §16 (NEW).]

4-O. Inherently hazardous substance. "Inherently hazardous substance" means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

[PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

4-P. Long-term care facility. "Long-term care facility" means a hospice provider facility licensed under [chapter 1681 \(./22/title22ch1681sec0.html\)](#); a nursing facility licensed under [chapter 405 \(./22/title22ch405sec0.html\)](#); an assisted living facility licensed under [\(./22/title22ch1663sec0.html\)](#); [chapter 1663 \(./22/title22ch1663sec0.html\)](#) or 1664; or a facility or program licensed under [\(./22/title22ch1663sec0.html\)](#); [chapter 1663 \(./22/title22ch1663sec0.html\)](#) that provides care for a qualifying patient in accordance with [section 2423-A, subsection 1, paragraph F-1, subparagraph \(2\) \(./22/title22sec2423-A.html\)](#).

[PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

4-Q. Manufacture or manufacturing. "Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

[PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

4-R. Manufacturing facility. "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under [section 2423-F \(./22/title22sec2423-F-1.html\)](#).

[PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

4-S. (CONFLICT: Text as enacted by PL 2019, c. 331, §2) Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

[PL 2019, c. 331, §2 (NEW).]

4-S. (CONFLICT: Text as enacted by PL 2019, c. 528, §16) Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. "Marijuana concentrate" does not include resin extracted from hemp as defined in [Title 7, section 2231, subsection 1-A, paragraph D \(../7/title7sec2231.html\)](#) or any compound, manufacture, salt, derivative, mixture or preparation therefrom.

[PL 2019, c. 528, §16 (NEW).]

5. Medical use. "Medical use" 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 qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.

[PL 2017, c. 452, §3 (AMD).]

5-A. Member of the family. "Member of the family" means a person who is a resident of the State and who is a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, parent, stepparent, grandparent or grandchild of another person. "Member of the family" includes a person who is a resident of the State and who is living with a person as a spouse and a natural parent of a child of a person.

[PL 2017, c. 452, §3 (AMD).]

5-B. Members of the same household. "Members of the same household" means 2 or more people who are residents of the State and who reside in a shared dwelling unit.

[PL 2017, c. 452, §3 (AMD).]

5-C. Marijuana testing facility. "Marijuana testing facility" means a public or private laboratory that:

A. Is authorized in accordance with [section 2423-A, subsection 10 \(../22/title22sec2423-A.html\)](#) to analyze contaminants in and the potency and cannabinoid profile of samples; and [PL 2017, c. 447, §2 (AMD); PL 2017, c. 452, §3 (AMD).]

B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department. [PL 2015, c. 475, §3 (NEW).]

[PL 2017, c. 447, §2 (AMD); PL 2017, c. 452, §3 (AMD).]

6. Registered dispensary or dispensary. "Registered dispensary" or "dispensary" means an entity registered under [section 2425-A \(../22/title22sec2425-A.html\)](#) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

[PL 2019, c. 331, §3 (AMD).]

6-A. Onsite assessment.

[PL 2011, c. 407, Pt. B, §8 (RP).]

6-B. Officer or director. "Officer or director" means, when used with respect to any nonprofit, for-profit or other organization governed by this chapter, a director, manager, shareholder, board member, partner or other person holding a management position or ownership interest in the organization.

[PL 2017, c. 452, §3 (NEW).]

7. Physician. "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to [Title 32, chapter 36 \(../32/title32ch36sec0.html\)](#) or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to [Title 32, chapter 48 \(../32/title32ch48sec0.html\)](#) who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

[PL 2009, c. 631, §14 (AMD); PL 2009, c. 631, §51 (AFF).]

7-A. Physician assistant. "Physician assistant" means a person licensed as a physician assistant by the Board of Osteopathic Licensure pursuant to [Title 32, chapter 36 \(../32/title32ch36sec0.html\)](#) or a person licensed as a physician assistant by the Board of Licensure in Medicine pursuant to [Title 32, chapter 48 \(../32/title32ch48sec0.html\)](#) who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

[PL 2017, c. 452, §3 (NEW).]

7-B. Plant canopy. "Plant canopy" means the total surface area within a cultivation area that is dedicated to the cultivation of mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature marijuana plants and seedlings and that are not used at any time to cultivate mature marijuana plants.

[PL 2019, c. 256, §1 (NEW).]

8. Primary caregiver.

[PL 2009, c. 631, §15 (RP); PL 2009, c. 631, §51 (AFF).]

8-A. Caregiver. "Caregiver" means a person or an assistant of that person that provides care for a qualifying patient in accordance with [section 2423-A, subsection 2 \(../22/title22sec2423-A.html\)](#).

[PL 2017, c. 452, §3 (AMD).]

9. Qualifying patient. "Qualifying patient" or "patient" 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 [section 2423-B \(../22/title22sec2423-B.html\)](#).

[PL 2017, c. 452, §3 (AMD).]

9-A. Registration certificate. "Registration certificate" means a document issued by the department that identifies an entity as an entity that has registered with the department in accordance with this chapter.

[PL 2017, c. 452, §3 (NEW).]

9-B. Remuneration. "Remuneration" means a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana is transferred or furnished by that person to another person.

[PL 2017, c. 452, §3 (NEW).]

10. Registered nonprofit dispensary.

[PL 2017, c. 452, §3 (RP).]

11. Registered caregiver. "Registered caregiver" means a caregiver who is registered by the department pursuant to [section 2425-A \(../22/title22sec2425-A.html\)](#).

[PL 2017, c. 452, §3 (AMD).]

12. Registered patient. "Registered patient" means a qualifying patient who is registered by the department pursuant to [section 2425-A \(../22/title22sec2425-A.html\)](#).

[PL 2017, c. 452, §3 (AMD).]

13. Registry identification card. "Registry identification card" means a document issued by the department that identifies a person as a person who has registered with the department in accordance with this chapter.

[PL 2017, c. 452, §3 (AMD).]

13-A. Tamper-resistant paper. "Tamper-resistant paper" means paper that possesses an industry-recognized feature that prevents copying of the paper, erasure or modification of information on the paper and the use of counterfeit documentation.

[PL 2011, c. 407, Pt. B, §13 (NEW).]

13-B. Resident of the State. "Resident of the State" means a person who is domiciled in the State.

[PL 2017, c. 452, §3 (NEW).]

13-C. Tamper-evident. "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.

[PL 2017, c. 452, §3 (NEW).]

14. Prepared marijuana.

[PL 2017, c. 452, §3 (RP).]

14-A. Sample. "Sample" means a marijuana plant or harvested marijuana that is provided for testing or research purposes to a marijuana testing facility.

[PL 2019, c. 331, §4 (RPR).]

14-B. Seedling. "Seedling" means a nonflowering marijuana plant or rooted cutting that measures 24 inches or less from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

[PL 2017, c. 452, §3 (NEW).]

15. Visiting qualifying patient. "Visiting qualifying patient" means a patient who is authorized for the medical use of marijuana in this State in accordance with [section 2423-D \(../22/title22sec2423-D.html\)](#) and who is not a resident of the State or who has been a resident of the State less than 30 days.

[PL 2017, c. 452, §3 (AMD).]

16. Written certification. "Written certification" means a document on tamper-resistant paper signed by a medical provider that is valid for the term provided by the qualifying patient's medical provider, except that the term of a written certification may not exceed one year, and that states that in the medical provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.

[PL 2017, c. 452, §3 (AMD).]

SECTION HISTORY