

**An Ordinance adopting the Municipality of Turner, Maine Moratorium
Ordinance on New Marijuana Cultivation/Production Facility Licenses**

WHEREAS, “An Act to Establish the Maine Medical Marijuana Act” was adopted by Maine’s voters in 2009 and established a regulatory framework for the cultivation, distribution and use of marijuana for the treatment of medical conditions; and

WHEREAS the initial law and rules provided exclusive authority to Maine’s Department of Health and Human Services to license and permit cultivation and distribution facilities and processes throughout the state; and

WHEREAS the Town of Turner’s Zoning Ordinance was amended in 2017 to locally regulate the location and certain conduct of new Medical Marijuana Production Facilities and provide for their annual licensing and the licensing of previously existing, “grandfathered”, facilities; and

WHEREAS Turner’s regulatory framework was adjusted in 2019 with the adoption of the Medical Marijuana Establishment License for Registered Caregivers Ordinance, which continued the authority of local cultivation and distribution facilities, and added retail storefronts to the array of lawful marijuana businesses within the town; and

WHEREAS the Town of Turner adopted the “Adult Use and Medical Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, and Testing Facilities Ordinance” in 2021 to accommodate and regulate the cultivation and distribution of marijuana through retail storefronts for non-medical consumption, and consolidate both medical marijuana and adult-use marijuana into the same regulatory ordinance; and

WHEREAS the Town’s rules for cultivation/production facilities have consistently included a provision that the criminal record of a facility operator shall not contain convictions for drug-related offenses; and

WHEREAS the Town’s rules are intended to ensure that business is 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

WHEREAS the municipal officers responsible for licensing of other regulated products have the authority to deny licensing as the result of “repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises”; and

WHEREAS such incidents have occurred at licensed cultivation/production facilities and/or at cultivation/production facilities where licensing is sought; and

WHEREAS the continuation of such incidents within the Municipality has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

WHEREAS, the Municipality needs time to review the law and to review its own ordinances to determine the implications of accommodating this licensing provision on proposed cultivation/production facilities and to develop reasonable ordinances to address the concerns cited above; and

WHEREAS, the Municipality's current ordinances are insufficient to prevent serious public harm that could be caused by not taking these incidents of record into account when considering licensure for cultivation/production facilities that are otherwise authorized, thereby necessitating a moratorium; and

WHEREAS, the board of selectmen, the administration and the planning board shall study the Municipality's current ordinances to determine the licensing provisions and other regulatory implications of marijuana cultivation/production facilities and consider what amendments to the town's ordinance, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of ongoing incidents of the nature cited above at premises sought for marijuana cultivation/production, being located in the Municipality; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Municipality enacts this Moratorium Ordinance on new marijuana cultivation/production facility applications.

NOW, THEREFORE, be it ordained by the legislative body of the Municipality of Turner, Maine, that the following Moratorium Ordinance on new applications for marijuana cultivation/production facilities be, and hereby is, enacted, and, in furtherance thereof, the legislative body does hereby declare a moratorium on the location, operation or licensing of any new cultivation/production facilities within the Town. It shall not apply to applications where no incidents have been recorded over the five year period immediately preceding enactment.

This Moratorium Ordinance shall take effect once enacted by the legislative body. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended by the board of selectmen, for the express purpose of drafting an amendment or amendments to the Municipality's current ordinances to protect the public from health and safety risks including, but not limited to, repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the premises sought for marijuana cultivation/production, or by persons patronizing or employed by the licensed premises; the potential adverse health and safety effects of such incidents on the community if not properly regulated; the unnecessary consumption of public resources caused by such incidents; and the potential increased burden on the public safety agencies serving the Municipality in responding to the same.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to applications for new marijuana cultivation/production facility licenses that may be proposed to be located within the Municipality on or after September 1, 2025; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any newly proposed marijuana cultivation/production facility for which an application for a building permit, Certificate of Occupancy, site plan, operating license or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Municipal official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a marijuana cultivation/production facility within the Municipality on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a marijuana cultivation/production facility; and

BE IT FURTHER ORDAINED, that those provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if marijuana cultivation/production facilities are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Municipality shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.