



# TOWN OF KITTERY

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## REPORT TO TOWN COUNCIL & PLANNING BOARD

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Meeting Date: February 25, 2019  
From: Marijuana Working Group  
Subject: Legalized Marijuana  
Councilor Sponsor: N/A

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### BACKGROUND

In February of 2017, the administration formed a staff-level Marijuana Working Group to spearhead the town's effort to develop an approach to addressing legalized marijuana in Kittery. The Working Group established its charge which included: becoming familiar with marijuana legalization in other states; monitoring developments in the state-level licensing process, gauging public sentiment as it relates to specific marijuana operations, and developing recommendations for local ordinances, regulations and policies that protect the town.

The Working Group is comprised of Town Manager Kendra Amaral, Director of Planning and Development Adam Causey, Police Chief Robert Richter, Fire Chief David O'Brien, Code Enforcement Officer Stephen Wilson, School Resource Officer Jay Durgin, and intern David Evans.

### UPDATE ON STATE PROCESS

The Legislature enacted a number of laws in the summer of 2018 that amended, added to, or removed certain sections of the Legalization Act adopted in 2016 by the voters of Maine. Changes were also made to the Medical Marijuana law. Following is a brief overview of the changes:

#### Adult Use Marijuana:

- Expressly granted municipalities local control over the type and number of establishments allowed in their community. The act requires municipalities to "opt-in", and the lack of action to opt-in is by default deemed to be an opt-out.
- Setback requirements are 1,000 feet from schools, though the community can reduce that to 500 feet by local ordinance.
- Clarified that the lack of action from a municipality on a request for approval or license within 90 days does not constitute approval or satisfy the request for approval requirement.
- Capped home cultivation to 3 mature plants, and 12 immature plants (seedlings are unlimited).
- Allowed local regulation of personal cultivation excepting the regulations cannot change the number of plants allowed, cannot require licensure for home cultivation, and cannot limit home cultivation to certain zones within the town.
- State tax rate is set at 10% on retail sales, and 10% on excise for business to business sales. 12% of revenue raised will be used to fund an "Adult Use Marijuana Public Health and Safety Fund" to facilitate public health and safety awareness education programs and assist in the training of local, county and state law enforcement officers. No amount of the revenue raised is shared with the host municipality.

#### Medical Marijuana:

- Changed name from Primary Caregivers to Registered Caregivers.
- Does not require Caregiver to register if serving two or fewer households.
- Eliminated patient limits for Caregivers.
- Capped cultivation to 30 mature plants and 60 immature plants for Registered Caregivers.
- Allows for the operation of a retail store (storefront provision), if the community “opts-in”.

### **PROPOSED LEGISLATION and STATE-WIDE STATUS**

The 129<sup>th</sup> Legislature is poised to consider additional legislation on marijuana sales including:

LD 335 – distribute 25% of revenue (sales and excise tax) to the host community.

LD 719 & LD 720 – An act to amend the Adult Use Marijuana Law (text has not been developed yet)

There appears to be a greater likelihood that this Legislature will recognize the role and responsibilities municipalities assume in allowing adult-use marijuana operations in their communities. The possibility of local revenue either from revenue sharing or a local-option tax on marijuana sales appears to be back on the table for discussion.

It remains legally untested whether a host community agreement is permissible, but the current assumption is a host community agreement would not survive a legal challenge.

Approximately 6 communities appear to be currently working on local ordinances to allow adult use marijuana stores. It is expected that the state will begin accepting applications for licenses in the fall, and issue “conditional” licenses in the first half of 2020. Licenses are conditional, until a municipality approves the application.

### **REVISED FRAMEWORK**

Attached is the revised framework developed by the Working Group. This framework is intended to support discussion about what should be part of local ordinances if the town is to allow marijuana operations.

The framework was developed to capture the issues and concerns identified in our research and expressed by the public. It is our expectation that the Town Council and Planning Board will provide input and feedback.

### **ATTACHMENTS:**

- MMA Legislative Updates
- Proposed Laws
- Revised Framework

fighters by Expanding the Provision of Live Fire Service Training. (Sponsored by Rep. Herbig of Belfast) **PL 2017, c. 444**

This Act establishes the Live Fire Service Training Facilities Fund providing eligible municipalities with grants for the construction, repair or replacement of regional live fire service training facilities. The Maine Fire Protection Services Commission is charged with developing eligibility criteria, awarding grants and directing the Maine Fire Service Institute, housed within the Maine Community College System, to make grant payments to municipalities. The Institute is prohibited from issuing grants after June 30, 2021, unless explicitly authorized by the Legislature to do so. A one-time \$500,000 appropriation is provided to capitalize the grant program.

**LD 1869 – An Act To Establish the Total Cost of Education and the State and Local Contributions to Education for Fiscal Year 2018-19.** (Sponsored by Sen. Langley of Hancock County) **Emergency Enacted; PL 2017, c. 446 (7/8/18)**

This emergency Act appropriates \$1.1 billion as the state share of K-12 education in FY 2019 as calculated by the Essential Programs and Services (EPS) school funding model, as well \$181.5 million in state contributions to the unfunded actuarial liabilities of the Maine Public Employees Retirement System attributable to teachers, retired teacher health insurance and retired teacher life insurance. The total amount of money – both state and local – the model identifies as necessary to fund K-12 education, and including teacher related unfunded actuarial liability costs, is \$2.431 billion, which puts the state share at 53.3 percent. (When the unfunded actuarial liability costs are excluded from total expenditures, the state's share of K-12 education is 49.6 percent.) To meet the minimum local share (\$1.13 billion), the mill rate is set at 8.48 mills, an increase of 3.5 percent from the FY 2018 mill rate of 8.19. This increase is due, in large part,

to the fact that 100% of EPS costs are now recognized in the funding formula.

## Health & Human Services

**LD 238– An Act To Amend the Maine Medical Use of Marijuana Act.** (Sponsored by Sen. Brakey of Androscoggin County) **Emergency Enacted; PL 2017, c. 447 (7/9/18)**

This emergency Act replaces the limited municipal school setback and dispensary regulatory authorizations in the pre-existing Medical Use of Marijuana Act with express recognition of home rule authority to comprehensively regulate medical marijuana primary caregivers, dispensaries, and testing and manufacturing facilities. Two limitations are imposed on home rule: municipal bans on primary caregiver activities, as well as limitations on the number of primary caregivers authorized to operate within a municipality, are not allowed.

The new law also provides for accredited third-party testing of medical marijuana, authorizes the manufacture of medical marijuana products using non-hazardous extraction and concentration processes, and requires processors who utilize hazardous substances to be certified as safe by a state-licensed professional engineer. The manufacture of medical marijuana products using both hazardous and non-hazardous extraction and concentration processes is authorized for all persons, subject to any existing limitations and forthcoming state rules, with “tier 1” processors authorized to possess up to 40 pounds of harvested marijuana, and “tier 2” processors authorized to possess up to 200 pounds of harvested marijuana.

Note: The term “primary caregiver” in the Act will be replaced with “registered caregiver” when LD 1539 takes effect on Dec. 13, 2018.

**LD 1539 – An Act To Amend Maine’s Medical Marijuana Law.** (Sponsored by Rep. Sanderson of Chelsea) **PL 2017,**

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c. 452

This Act re-writes much of Maine’s Medical Use of Marijuana Act. Amendments made to the Act as a result of this legislation include the following:

**Local Control.** The Act’s pre-existing municipal school setback and dispensary regulatory authorities are replaced with express recognition of the comprehensive home rule authority to regulate registered medical marijuana caregivers, dispensaries, and testing and manufacturing facilities. Two general limitations are imposed on home rule: municipal prohibitions on registered caregivers, as well as limitations on the number of registered caregivers authorized to operate within a municipality, are not allowed. Another limitation, described below, grandfathers caregiver retail stores operating with municipal approval on the effective date of this law while applying a municipal opt-in requirement to storefronts aiming to open after the effective date.

**Municipal Opt-in Requirement and Grandfathering.** Registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities not operating on the effective date of the law are prohibited from operating in a municipality until its legislative body has voted to adopt or amend an ordinance or approved a warrant article allowing such entities to operate. Municipalities are not authorized by the terms of this law, however, to prohibit those entities already operating *with municipal approval* prior to the effective date.

**State Verification for Code Enforcement.** When requested by the code enforcement officer, state officials are required within two business days to verify the validity of a person’s state-issued registration identification card and whether the card-holder’s conduct is authorized, as well as the location at which the conduct is authorized if necessary to verify the card to the code enforcement officer. The code enforcement officer, or other municipal officer in municipalities without code enforcement officers, are required to keep the information received confidential.

**Qualifying Patients.** Six key changes are made with respect to patient activities:

1. Patients will be able to receive written prescription certifications to use medical marijuana for any medical condition their physician believes may be alleviated by the patient’s use of marijuana;
2. The maximum per-patient prescription limit is expanded from 2.5 ounces to up to 2 pounds, and the amount that may be possessed by patients is expanded from 2.5

ounces to up to 8 pounds;

3. Each patient may grow a maximum of 6 mature plants, 12 immature plants, and unlimited seedlings;
4. Patients may share seeds and plants with one another;
5. Patients may use medical marijuana in certain assisted living and residential care facilities provided the use is consistent with facility policies; and
6. Patients may designate multiple primary caregivers rather than only one caregiver.

**Caregivers.** Six key changes are made with respect to caregiver activities:

1. The term “primary caregiver” is replaced in the Act with a new distinction between un-registered and registered caregivers. Caregivers who only serve two households or family members are not required to register with the state. All other caregivers are required to register with the state and are referred to in the new law as “registered caregivers;”
2. Registered caregivers are authorized to operate retail stores provided that the municipality has opted to allow the activity;
3. Each caregiver may grow a maximum of 30 mature plants, 60 immature plants, and unlimited seedlings;
4. Caregivers are allowed to employ any number of assistants (under the pre-existing Act employees were capped at one person per designated patient served);
5. Caregivers may transfer products between one another (under the pre-existing Act caregivers were only allowed to transfer products to dispensaries); and
6. Tracking and reporting on seed and plant sourcing and sales is required of registered caregivers and dispensaries.

**Dispensaries.** This law authorizes the state to issue six additional dispensary certifications (in addition to the existing eight) until 2021, after which time there will be no cap on the number of dispensary certificates issued statewide. The law also removes the previous requirement that dispensaries operate as non-profits.

**Inspections.** State inspection authority is limited to registered caregivers, dispensaries, testing, and manufacturing facilities. Such inspection is authorized on demand of the Department of Health and Human Services, but is disallowed in areas where marijuana-related activities are not taking place and,



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in the case of registered caregivers, when the caregiver is not present. Two or more absences on the part of the caregiver are grounds for state revocation of their certification.

**Immunity.** The pre-existing immunity for dispensary employees and directors is extended to registered caregivers and their employees as well as to hospitals and long-term care facilities and their directors, employees or agents.

**Testing.** Accredited third-party testing of medical marijuana is authorized.

**Extraction and Concentration.** The same language included in LD 238, authorizing the manufacture of medical marijuana products using non-hazardous extraction and concentration processes for all persons, subject to any forthcoming state rules, is included in this Act as well. "Tier 1" processors are authorized to possess up to 40 pounds of harvested marijuana, while "tier 2" processors are authorized to possess up to 200 pounds of harvested marijuana. The same limits apply to processors utilizing hazardous substances for extraction, provided they are certified as safe by a state-licensed professional engineer and have notified the state in advance of their intent to engage in marijuana extraction using inherently hazardous substances.

### Taxation

LD 1629 – An Act To Protect Homeowners Affected by Tax Lien Foreclosures. (Sponsored by Rep. Espling of New Gloucester) **Enacted: PL 2017, c. 478**

This Act creates new pre-foreclosure and post-foreclosure tax lien processes. Under the terms of the law, tax collectors will now be required to use the "demand notice" currently required under Title 36, §942 to inform a delinquent property taxpayer, who is receiving the homestead exemption, of the right to apply for a poverty tax abatement and of the ability to contact the state's Consumer Credit Protection Bureau for assistance to

avoid tax lien foreclosure. The additional information required to be included in the demand notice will be provided by the state to the Maine Municipal Association for distribution to municipal officials.

As enacted, the law also creates a new process for disposing of the tax acquired property previously owned by qualifying homeowners.

**Special Process.** If the municipality decides to sell the tax acquired property and the previous homeowner meets the qualifications specified below, the community is required to try to sell the property on the open market. As provided in the law, a municipality must enter into a six month contract with a real estate broker to sell the property at its fair market value or at a price at which the property is anticipated to sell within six months. If the contracted broker is unable to sell the home within six months or if after contacting three real estate brokers the municipality is unable to retain the services of a broker to sell the tax acquired home, the municipality is authorized to dispose of the property in the same manner that all other tax acquired property is sold.

**Qualifications.** To qualify for this new process at least one of the owners must be 65 years of age or older on the date the tax lien certificate is recorded and have received the homestead exemption. In addition, the former owner or owners must demonstrate to the municipal officers (or officers' designee) that their previous year's adjusted gross income was less than \$40,000, after medical expenses, and that the value of liquid assets is less than \$50,000 for an individual or \$75,000 for multi-person household.

**Determining Eligibility.** To determine eligibility for the new process, at least 90 days prior to listing the property for sale, the municipal officers (or officers' designee) must notify the former owner, by first-class mail, of the right to require the special sale process. The municipality must include in the notice an application form with instructions and submission information neces-

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# Legislature answers calls to clarify marijuana laws

*Medical marijuana law changes are still subject to veto. Legislation progressed well on balance, although financial recognition of the local enforcement burden is a sore spot.*

By Garrett Corbin, Legislative Advocate, State & Federal Relations, MMA

In the wake of the marijuana legalization referendum passed some 20 months ago, a number of important questions have cropped up related to the regulation of both the existing medical as well as the looming non-medical marijuana industries. Heading into the 128<sup>th</sup> Legislature, the Maine Municipal Association's Legislative Policy Committee made it a priority to close a number of loopholes and remove the cloud of legal uncertainty that had been casting a shadow over local efforts to ensure that marijuana businesses are subject to the same ordinances and codes that apply to other businesses.

In the second regular and second special legislative sessions this year, members of the House and Senate did an admirable job of addressing most municipal issues with the non-medical Marijuana Legalization Act, while also managing to address a fundamental ambiguity regarding local regulation in the Medical Use of Marijuana Act. The Legislature also moved to apply a new "opt-in" provision to all commercial sales, both medical and non-medical, requiring approval of the local legislative body before new marijuana businesses can operate legally. The law is now opt-in for non-medical establishments, and poised to become opt-in for medical ones as well.

At the time of printing, it was still unclear whether the two bills addressing the medical act will be vetoed and, if so, whether the veto will be overridden or sustained. More on that at the end of this article.

## Brief history of marijuana regulation

By regulating medical and non-medical marijuana through two sepa-



*This new "boutique" is located along Route 202 in Manchester. (Photo by Ben Thomas)*

rate chapters of law, this story has developed into something of a Tale of Two Citizen Initiated Acts. The first came about when Maine voters legalized the medical use of marijuana in 1999, by a margin of 61-39 percent at referendum. Maine's Medical Use of Marijuana Act (MUMA) has stayed in place since that time, evolving through various amendments and generally authorizing certified "caregivers" to dispense the medicine to patients who have received a doctor's certification qualifying them for treatment.

In 2016, voters approved legalizing the consumption of the plant for non-medical purposes as well, albeit by the razor thin margin of 50.3 percent to 49.7 percent. This more recent effort, enacted as the Marijuana Legalization Act (MLA), has been referred to as legalization for "recreational" or "adult use" purposes. This act authorizes a right for persons 21 years of age and older to grow and possess marijuana in private, as well as a privilege for re-

lated commercial business enterprises to operate subject to licensing and regulation.

## Non-medical law solidified

Just months after the referendum vote, the Legislature in its first session last year bought time to iron out the wrinkles in the voter-adopted MLA by enacting three bills addressing issues that needed to be resolved immediately. One of those bills delayed the agency rulemaking deadline for the state's commercial licensing program until Feb. 1, 2018, effectively imposing a year-long statewide moratorium on the commercial aspects of the new law. With the commercial implementation date delayed to 2018, the Senate President and Speaker of the House established a new 17-member Marijuana Legalization Implementation Committee, comprised of five senators and 12 representatives.

After eight months of public hearings and work sessions, 15 members

of the committee voted to support the 73-page bill printed as LD 1650, An Act to Amend the Marijuana Legalization Act. Although LD 1650 was passed to be enacted by both chambers during the first special session of the Legislature in October 2017, the bill ultimately died when, on Nov. 6, the House fell shy of the two-thirds majority margin necessary to override Governor Paul LePage's veto.

This year, the committee rolled up its sleeves, redoubled its efforts, and reformed LD 1650 into LD 1719, An Act to Implement a Regulatory Structure for Adult Use Marijuana. The reincarnated 82-page bill managed to garner the support of 16 of the 17 committee members, pass to be enacted in the House and Senate, and gain enough votes to overcome another gubernatorial veto on the final day of the second regular legislative session on May 2 of this year.

#### New and improved law

As a result of the amendments

made in the enacted bill (now Public Law 2017, Chapter 409), the MLA now provides the framework necessary for the new agency of oversight, the Department of Administrative and Financial Services, to begin drafting the detailed rules governing the licensure and regulation of the commercial elements of the law.

Because LD 1719 removed the licensing deadline, it is unclear when the department's rules will be promulgated, but they will govern the licensure of four types of business enterprises or establishments: cultiva-

tion, manufacturing, testing and retail. Public consumption is still not allowed under the new act, even in a licensed commercial establishment. The original act's allowances for "social clubs" as well as online delivery, drive-through, and vending machine dispersal have been repealed by LD 1719 and are no longer authorized.

As referenced above and described in the New Laws article printed in this edition of the magazine, LD 1719 includes a municipally welcome change to the act allowing towns, cities and plantations to affirmatively "opt-in"



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to regulate some or all types of commercial establishments within the municipality before those establishments are permitted to operate. All municipalities which have not taken action to authorize establishments are effectively deemed to have opted-out, meaning commercial marijuana operations are prohibited. Establishments may not apply for authorization to operate unless the municipality's legislative body has adopted an applicable ordinance or approved a permissive warrant article.

### Fiscal fail

Along with this extremely positive opt-in revision came an almost equally unfortunate financial development. For a variety of reasons that even in hindsight remain unclear, the requirement that the state share with host municipalities a relatively small portion of the sales and excise tax revenue gener-

ated by the new regulated marijuana industry was repealed from the law.

Drawing from experiences in other states that have legalized adult use, and from Maine's history with medical marijuana operations, local administrative and enforcement-related costs are likely to be significant. Those cost include, but are far from limited to: increased risk of fires and power outages as a result of faulty electrical wiring or extraction operations; mold resulting from the moisture created when plants are grown indoors, causing habitability and resale issues; fertilizer runoff that can negatively impact wastewater and storm water treatment efforts; increased water intake/usage and related demand on infrastructure and water sources; nuisance-level odor and lighting; parking and transportation safety at high traffic operations; and, general criminal issues such as OUI, theft or burglary.

Yet the committee decided that its amendment to LD 1719 would not include any direct provision of tax revenues to municipalities, nor would it allow for local impact fees, nor would it afford a half-share of state licensing application fees as provided in the original Act. This public policy seems to undercut the very premise of the Legislature's efforts, which have been to reform the law in a way that ensures a highly regulated yet robust legal market for non-medical marijuana that eventually eliminates the existing, and now flourishing, illicit market. All along, a key component of this initiative has been a two-tier regulatory approach, with the state and municipalities working in tandem.

This makes Maine the only legalizing state which is not allowing for any new local revenues, aside from ordinary municipal licensing fees that are strictly limited by existing statute. How the state expects municipalities to act as partners in regulating an industry filled with uncertainties without the proceeds to offset local costs is anyone's guess.

For now, it's all of the home rule with none of the revenue. Following legislative approval of the department's draft rules, state licenses are expected to be issued. While no one has a crystal ball, most stakeholders expect the state licensing program governing the four types of non-medical establishments to go online sometime in 2019.

### Medical act overhaul

As municipal officials throughout the state have learned, the medical act, MUMA, established a significant ambiguity regarding local authority to regulate medical marijuana caregivers. The ambiguity results from the law's clear allowance for municipal regulation of dispensaries, but silence with respect to local regulation of caregiver's cultivation and distribution operations.

Originally, caregivers used a home-based or house call delivery model. For years, it seemed understood that the highly regulated eight statewide dispensaries were the only entities authorized to distribute medical marijuana in a retail store setting. Today, caregivers are increasingly taking advantage of a "rotating patient" loophole and silence in MUMA regarding caregiver retail operations to attempt to open lo-

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cal retail storefronts. Caregiver stores are now reported to be running in dozens of Maine towns and cities, with minimal state oversight.

Because the act did not address local regulation of caregivers, municipal attorneys – and, certainly, caregivers’ attorneys – have arrived at different opinions on how to interpret the silence. Does silence mean home rule authority has not been restricted and local governments may address issues with caregivers in a manner similar to how they regulate other businesses? Or, does the silence indicate that the explicit provision of local regulatory authority over dispensaries is the only home rule authorized by the Legislature?

### Dual medical bills enacted

To help answer this question, on June 26, the last day of session before this edition went to print, the Legislature passed LD 238, An Act To Amend the Maine Medical Use of Marijuana Act, and LD 1539, An Act To Amend Maine’s Medical Marijuana Law. Although the titles are similar, LD 238 makes a few small changes to the existing MUMA, while LD 1539 significantly reworks the program.

*LD 238.* The Legislature’s Health and Human Services Committee intended for LD 238 to serve as an emergency stop-gap measure until LD 1539 takes effect. The language legalizes accredited third-party testing of medical marijuana, authorizes the manufacture of medical marijuana products using non-hazardous extraction and concentration processes, and requires processors who utilize hazardous substances to be certified as safe by a state-licensed professional engineer.

Importantly, the proposal also recognizes comprehensive home rule authority to fully regulate registered medical marijuana caregivers, dispensaries, and testing and manufacturing facilities, with a key limitation: municipalities may not prohibit registered primary caregivers from operating within the municipality, nor may they limit the number of registered primary caregivers.

These caveats reflect the balance that was necessary to gain broad legislative support for clearly recognizing the local authority to regulate all commercial medical marijuana operations. Both the House and Senate enacted

LD 238 as an emergency measure with minimal debate.

It should also be noted that this bill only recognizes local regulatory authority over commercial caregivers. The question of whether or not municipalities may regulate caregiver-patient relationships in more private family or household settings may need to be answered by a future Legislature or court. Because communities have been chiefly concerned with commercial caregivers, MMA’s advocacy efforts prioritized addressing those operations first.

*LD 1539.* For the commercial caregivers, this bill is the big kahuna. It acquiesces to many of the business activities that have been working in gray areas of the law and may have been struck down had they been challenged in court. The product of months of committee effort and vigorous end-of-session lobbying, as amended the legislation would make the changes brought about by LD 238 and then some.

As enacted, doctors will be authorized to certify for treatment patients who have a medical condition the physician thinks marijuana might help. Patients will be able to possess eight pounds of the plant instead of just 2.5 ounces under the previous law, and they will no longer need to be serviced by only one caregiver.

Limitations on the number of patients a registered caregiver (i.e., those serving more than two household or family members) may serve, or employees a registered caregiver may hire are gone, and registered caregivers will be authorized by virtue of their state registration certificate to operate a retail store. Instead of growing a maximum of six plants per patient, registered caregivers will be allowed to grow a maximum of 30 mature marijuana plants (plus additional immature seedling-type plants). The quid for this quo is expanded oversight by state and local authorities.

Dispensaries back LD 1539 as it authorizes six new dispensaries, in addition to the existing eight, until 2021, when the cap on the number of dispensaries will be lifted altogether. The bill also removes the requirement that dispensaries operate as non-profits. A topic of much discussion in the committee’s final work sessions on the bill was whether or not municipalities

would be allowed to prohibit caregiver retail stores, just as they may for dispensaries and non-medical marijuana enterprises. MMA lost the first round of that battle, with the committee deciding to apply to stores the same terms as to caregivers in general; towns and cities could regulate but not prohibit caregiver operations. When the bill reached the Senate, however, Sen. Roger Katz of Kennebec County, the co-chair of the Marijuana Legalization Implementation Committee, insisted on an amendment requiring the same opt-in rule that applies to non-medical retail to apply to medical retail outposts as well.

The result is that the version of LD 1539 recognizes home rule regulatory authority over all medical marijuana businesses, makes invalid local prohibitions or number limits on non-retail medical caregiver operations, and in turn, moving forward, disallows any retail operations that have not received municipal authorization. Stores existing on the effective date of the law will be grandfathered to the extent they are operating with requisite municipal approvals.

### Veto possible?

Alternatively, the Governor may veto these two medical marijuana bills. Should a veto be issued, the Legislature will consider overriding that decision when it reconvenes its second special session the week of July 9. The August-September edition of this publication will update readers on whether or not LDs 238 and 1539 went into law, and the Marijuana Resources section of MMA’s website will be updated as soon as any vetoes are sustained or overridden.

For more information on these legislative twists and turns, municipal officials are welcome to contact Garrett Corbin in MMA’s State & Federal Relations Department via email at [gcorbin@memun.org](mailto:gcorbin@memun.org), or an attorney in the Legal Services Department at [legal@memun.org](mailto:legal@memun.org) with questions regarding ordinances, how to handle existing operations, and applications for new businesses. The Legal Services Department has also recently published its Adult Use Marijuana Information Packet, now available online at <https://memun.org/Member-Center/Info-Packets-Guides/Adult-Use-Marijuana>. ■

assistance are exempt from liability for damages for an injury or death of the dog, unless the injury or death was caused recklessly or negligently.

**LD 1717 – An Act To Clarify the Authority of the Chief Medical Examiner To Properly Dispose of Abandoned Human Remains. (Sponsored by Rep. Moonen of Portland) PL 2017, c. 335**

This Act allows the state’s Chief Medical Examiner to dispose of identified but abandoned human remains. Remains are deemed abandoned if no one takes custody and control of them within 30 days after the autopsy and the examiner is unable to locate next of kin or a person or governmental unit legally responsible or willing to assume responsibility. The examiner is required to file a certificate of abandonment in the municipality where the remains were recovered, and authorized but not obligated to seek to recover costs from the estate or the municipality of residence of the deceased.

### **Labor, Commerce, Research & Economic Development**

**LD 1856 – An Act Regarding Permits for Burial of Cremated Remains. (Sponsored by Sen. Jackson of Aroostook County) Emergency Enacted; PL 2017, c. 363 (4/04/18)**

Current law requires a person in charge of a public burying ground or, if no such person exists, an official of the municipality where the public burying ground is located, to endorse and provide the date cremated remains were buried on the permit for burial of cremated remains and return the permit to the State Registrar of Vital Statistics or the clerk of the municipality in which the public burying ground is located. The existing law also requires the funeral director or authorized person to present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where the death occurred and to the clerk who issued the permit. This Act makes these required activities voluntary.

### **Marijuana Legalization Implementation**

**LD 1719 – An Act To Implement a Regulatory Structure for Adult Use Marijuana. (Sponsored by Rep. Pierce of Falmouth) Emergency Enacted; PL 2017, c. 409 (5/02/18)**

This Act provides the regulatory framework necessary to implement the citizen initiated law legalizing the non-medical use of marijuana for persons 21 years of age or older, which as proposed in the Act is referred to as the “adult use” of marijuana. The Act provides such persons with a right to privately consume and possess marijuana, subject to restrictions described below, and creates a privilege requiring separate licensure for the operation of four types of commercial marijuana establishments – cultivation, manufacturing, testing, and retail sales. Public consumption of marijuana is not authorized under the Act, even in a licensed commercial establishment.

*Local Control.* Of greatest significance to municipal officials, the Act expressly authorizes towns, cities, and plantations to “opt-in” to regulate some or all types of marijuana establishments within the municipality, including prohibiting or limiting the number of any type of establishment that may be approved or licensed to operate in the community. Under the terms of this Act, all municipalities which have not taken action to opt-in are effectively deemed to be opted-out, meaning establishments are not allowed in those municipalities.

As such, applicants may not seek local authorization for commercial establishments until the state has issued them a conditional license and the municipality has passed a new ordinance, amended an existing ordinance, or approved a warrant article designating certain or all types of marijuana establishments to be a permissible use in that municipality’s jurisdiction.

The Act also expressly authorizes communities to adopt

land use ordinances regulating the location of all marijuana establishments within the community and to impose licensing requirements.

There are only two limitations on local approval: (1) municipalities may not authorize applications for establishments to be located within 1,000 feet of the property line of a preexisting public or private school, or within 500 feet of such a school if the municipality has approved a 500 foot setback distance instead; and (2) approval may not be granted to an applicant who has not demonstrated ownership or lease of the property from which the proposed establishment will operate.

Municipalities and the Department of Administrative and Financial Services are required to notify each other, on a form provided by the department, within 14 days of a decision by either the municipality or the department to: (1) approve or deny the location of a marijuana establishment; (2) issue or renew a license; (3) withdraw the approval or suspend or revoke a license; (4) approve the relocation of a licensed premises; or (5) approve a transfer of ownership interest in a licensed establishment.

As provided in the Act, a municipality’s failure to act on a request for approval or a license to operate a marijuana establishment cannot be construed to satisfy the approval or licensing process. After 90 days, subject to an additional 90-day extension by the municipality, failure to act on a request for authorization or licensure in a municipality which has authorized the type of establishment is deemed a denial which may be appealed by the applicant to Superior Court.

*Personal Use.* The Act establishes quantitative limits for the personal use, consumption, cultivation and possession of marijuana by persons 21 years of age or older. This includes limiting possession to 2.5 ounces except for additional amounts produced by home cultivation, which must be located at the person’s place of residence or the location of cultivation.

Home cultivation is capped at a maximum of 3 mature plants, 12 immature plants, and unlimited seedlings, with the added requirements that these plants only be grown on land where the person is domiciled, or on land owned by the person, or on land owned by another person pursuant to a written agreement. Visual and security precautions are required, as are legible tags on each mature plant with the grower’s name, driver’s license or other ID number, and, if the plant is located on another’s land, the name of the owner of the parcel of land who has granted permission.

Local governments are authorized to regulate personal cultivation provided the regulations: (1) allow persons 21 and over who are domiciled on the property to cultivate the same number of plants (3 mature and 12 immature); (2) do not generally prohibit or require licensure for home cultivation for personal adult use; and (3) do not designate specific areas in the municipality for home cultivation.

(Note: Maine’s Medical Use of Marijuana Act authorizes medical marijuana patients to cultivate and possess greater quantities of medical marijuana.)

*Unorganized Territory.* In townships, the legislative body required to authorize establishments is the relevant county commissioners. In addition to approval by the town, plantation, or county commissioners, commercial activities in unorganized areas must also obtain the approval of the Land Use Planning Commission.

*Taxation.* The Act assesses an overall effective tax rate of twenty percent, splitting this rate roughly evenly between a ten percent sales tax on products sold at marijuana retail stores and the remainder accruing in the form of excise taxes on wholesale products sold by cultivation facilities. The excise taxes are \$335 per pound of marijuana flower or mature plants, \$94 per pound of trim, \$1.50 per immature plant or seedling, and \$0.30 per seed. Additionally, nursery facilities’ sales are subject to excise taxes when the sale is to another licensee (cultivator, manufac-

turer, or retail store) and a sales tax on sales directly to consumers.

Twelve percent of the total monthly tax revenue must be transferred to the Adult Use Marijuana Public Health and Safety Fund to be used to facilitate public health and safety awareness education programs and for enhanced training for local, county and state law enforcement officers.

Otherwise, there is no provision for the sharing of sales or excise taxes with municipalities. Local return on investment in authorizing municipalities is limited to licensing fees, which are subject to restrictions imposed by Title 30-A, section 3702.

*Nurseries.* Cultivation facilities are to be licensed by the state according to 5 different tiers, one of which is a Nursery Cultivation Facility. Such facilities would be authorized under their state cultivation license, without a separate state retail license, to sell immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana to other licensed cultivation facilities as well as directly to consumers, unless otherwise regulated by the municipality.

The Act also:

*Regulation in the Workplace.* Allows employers to: (1) prohibit the use, consumption, possession, trade, display, transport, sale or cultivation of marijuana in the workplace or within the course and scope of employment; (2) adopt policies restricting the use of marijuana by employees; and (3) discipline employees who are under the influence of marijuana in the workplace or within the course and scope of employment according to the employer's policies.

*Operating, Testing, Labeling and Packaging Requirements.* Sets into place the many operating, testing, labeling and packaging requirements for the cultivation, manufacturing and testing facilities, as well as for retail stores.

*State Licenses.* Establishes several initial, renewal, transfer of ownership, and relocation of premises licensing criteria. If an application is approved, the state is required to issue a conditional license, which expires after one year and does not permit operation until it becomes active. An active license to operate a marijuana establishment is issued only if and when the applicant obtains municipal approval to operate within the municipality's boundaries.

*License Violation.* Implements the process for fining a licensee or suspending or revoking licenses for violations of state law.

*State Agency Authority.* Regulatory implementation and oversight of the law is assigned primarily to the Department of Administrative and Financial Services (DAFS), in consultation with the Department of Agriculture, Conservation and Forestry as well as the Department of Labor and the Department of Public Safety. As proposed in the Act, DAFS is authorized to:

- Adopt the major substantive rules establishing: (1) initial license and renewal application processes; (2) qualifications for licensure; (3) licensing fees; (4) appeals process for a denial of an application and the conduct of appeals and hearings; (5) security requirements for retail stores; (6) cultivation, manufacturing and testing regulations; (7) additional workplace and employment regulations; and (8) public safety and law enforcement regulations;

- Implement and administer a system to track adult use marijuana from immature plant to the point of retail sale, disposal or destruction;

- Develop programs or initiatives to facilitate the collection and analysis of data regarding the impacts and effects of the use of marijuana in the state, including youth and adult marijuana use; school suspension and discipline; poison center calls, emergency department visits and hospitalizations; operating under the influence arrests; motor vehicle accidents; and violent crimes associated with the use of marijuana;

- Develop and implement programs, initiatives and campaigns focused on educating the public on the health and safety

matters related to the use of marijuana;

- Develop and implement programs or initiatives providing enhanced training for criminal justice agencies in the requirement and enforcement of the law, including training law enforcement officers in the inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances; and

- Annually submit a report to the joint standing committee of the Legislature with jurisdiction over adult use marijuana. The report must include information on the number and types of applications, total amount of application and license fees received and the amount of sales tax revenue collected; volume and value of adult use marijuana sold by stores, and cultivation facilities; number of inspections conducted; number of license violations committed; public health and safety data; and recommendations for legislation to address issues associated with adult use marijuana. The first report must be submitted on Feb. 15, 2020.

*Marijuana Advisory Commission.* The Act also creates the 15 member Marijuana Advisory Commission. The commission is tasked with reviewing the laws and rules pertaining to the adult use and medical marijuana industries and recommending changes to the laws and rules that are necessary to preserve public health and safety. Beginning Jan. 15, 2020, and annually thereafter, the commission is required to submit a report containing findings and recommendations to the joint standing committee or committees of the Legislature having jurisdiction over medical marijuana and adult use marijuana matters.

## Marine Resources

LD 1519 – An Act To Define the Intertidal Zone for the Management and Enforcement of Shellfish Conservation Ordinances. (Sponsored by Rep. Devin of Newcastle) **PL 2017, c. 350**

This Act defines the intertidal zone regulated by municipal shellfish conservation programs as the area below the high-water mark and above subtidal lands.

## State & Local Government

LD 780 – An Act Authorizing the Deorganization of Cary Plantation. (Sponsored by Rep. Sherman of Hodgdon) **PL 2017, c. 403**

This Act authorizes the deorganization of Cary Plantation in Aroostook County, subject to approval at local referendum.

LD 1484 – An Act Authorizing the Deorganization of the Town of Atkinson. (Sponsored by Rep. Higgins of Dover-Foxcroft) **P & SL 2017, c. 14**

This Act authorizes the deorganization of the Town of Atkinson, subject to approval at local referendum.

LD 1588 – An Act To Maintain Access to Property on Discontinued Roads. (Sponsored by Rep. Hilliard of Belgrade) **PL 2017, c. 345**

This Act prospectively amends the existing procedure for discontinuing municipal roads to public maintenance and adds a new procedure for the process of discontinuing local roads where abutting properties are not otherwise accessible by another public road. With respect to the existing process, the Act makes two changes: (1) requires that the notice of the proposed discontinuance mailed to abutters include additional information regarding the potential municipal retention of a public easement following discontinuance, related maintenance obligations and access implications, and the abutters' right to negotiate private maintenance and access easements amongst themselves; and (2) requires the final order of discontinuance in municipalities where the legislative body is the town meeting to be adopted at the annual town meeting rather than at a spe-



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 335

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H.P. 260

House of Representatives, January 24, 2019

**An Act To Require the State To Distribute 25 Percent of Adult Use  
Marijuana Retail Sales and Excise Tax Revenue to Generating  
Municipalities**

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Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative WARREN of Hallowell.  
Cosponsored by Senator DESCHAMBAULT of York and  
Representatives: FAY of Raymond, FOLEY of Biddeford, JOHANSEN of Monticello,  
PICKETT of Dixfield, Senator: DAVIS of Piscataquis.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 28-B MRSA §407** is enacted to read:

3 **§407. Revenue allocation to municipalities**

4 **1. Local Government Marijuana Revenue Fund established.** In recognition of  
5 the local costs of regulation and enforcement with respect to the activities associated with  
6 the legalization of adult use marijuana under this chapter and to assist in offsetting  
7 negative effects on local resources, there is established the Local Government Marijuana  
8 Revenue Fund, referred to in this section as "the fund."

9 **2. Fund sources.** The fund receives money transferred to the fund pursuant to  
10 section 1003, subsection 1 and Title 36, section 1818, subsection 1.

11 **3. Distribution of funds.** The Treasurer of State shall transfer the balance in the  
12 fund on the 20th day of each month. Money in the fund must be distributed to each  
13 municipality in which the legislative body has voted to adopt a new ordinance, amend an  
14 existing ordinance or approve a warrant article allowing a marijuana establishment within  
15 the municipality, in proportion to the ratio of state revenues generated by all marijuana  
16 establishments operating within the municipality to the state revenues generated by all  
17 marijuana establishments operating within the State.

18 **4. Unorganized and deorganized areas.** For purposes of municipal marijuana  
19 revenue allocation pursuant to this section, unorganized and deorganized areas must be  
20 treated as if they are municipalities.

21 **Sec. 2. 28-B MRSA §1003**, as enacted by PL 2017, c. 409, Pt. A, §6, is repealed  
22 and the following enacted in its place:

23 **§1003. Application of excise tax revenue**

24 All excise tax revenue collected by the department pursuant to this subchapter on the  
25 sale of adult use marijuana must be deposited into the General Fund, except that:

26 **1. Transfer to Local Government Marijuana Revenue Fund.** On or before the  
27 10th day of each month, the department shall transfer to the Local Government Marijuana  
28 Revenue Fund established under section 407 without any reduction 25% of the excise tax  
29 revenue received by the department during the preceding month pursuant to this  
30 subchapter; and

31 **2. Transfer to Adult Use Marijuana Public Health and Safety Fund.** On or  
32 before the last day of each month, the department shall transfer to the Adult Use  
33 Marijuana Public Health and Safety Fund established under section 1101 12% of the  
34 difference between the excise tax revenue received by the department during the  
35 preceding month pursuant to this subchapter and the transfer made pursuant to subsection  
36 1.



**RECREATIONAL AND MEDICAL MARIJUANA  
ORDINANCE AND POLICY FRAMEWORK  
July 24, 2017  
UPDATED February 25, 2019**

The following is a framework for ordinances, regulations and policies being proposed for consideration. This is not intended to represent the actual language to be adopted, rather the desired intent or direction being considered. [The framework has been updated to reflect current Maine Law adopted through December 31, 2018.](#)

The framework is divided into five sections:

- A) Land Use & Development – applicable to both medical and recreational marijuana uses
- B) Licensing – applicable to recreational marijuana uses only
- C) Personal Use Nuisances – applicable to personal cultivation and use

Each section includes brief, bulleted proposals for approaches, restrictions and/or requirements. The presented bullets are for discussion purposes and not intended to address every necessary detail a draft ordinance or policy will require. The framework is intended to generate discussion and develop consensus around key points to be incorporated into draft ordinances.

1 **A) LAND USE AND DEVELOPMENT**

2 **Title 16** To be added to the appropriate zones in 16.3, incorporated as a Separate Section in Title 16  
3 (16.12) or established as an Overlay Zone in 16.3

4 ***Purpose***

- 5 • Supplement to Maine state law. Acknowledge that marijuana remains a Class 1 substance  
6 under Federal law. Nothing in this code exempts individuals from Federal Law.
- 7 • Provides permission for only those licensed by the State of Maine and Town of Kittery to  
8 engage in the commercial cultivation, distribution, manufacturing, testing, and selling of  
9 recreational and medical marijuana. It is a violation of state law to operate a marijuana  
10 operation without a license.

11 ***Applicability***

- 12 • Applies to all cultivation, manufacturing, distribution, selling, and testing of recreational  
13 marijuana other than for personal use.
- 14 • Applies to all cultivation, manufacturing, distribution, selling, and testing of medical marijuana,  
15 [including Registered Caregivers, and excluding ~~other than for~~ personal use ~~or Primary~~](#)  
16 [Caregivers.](#)
- 17 • All transfers of marijuana in exchange for goods, services, and/or money are prohibited except  
18 when performed by a state and local licensed entity.

19 ***General Standards***

- 20 • All commercial recreational and medical marijuana activities must be by a state and local  
21 licensed entity.
- 22 • All marijuana related odors must remain within the property boundaries. Ventilation must be  
23 engineered with an odor management plan adopted and followed.
- 24 • No access will be permitted except through controlled access doors.

- 25 • Building must have 360-degree video surveillance outside and inside
- 26 • Establishments are prohibited within 1,000 feet of schools, parks, and houses of worship.
- 27 • Establishments are prohibited adjacent to strictly residentially-zoned properties such as R-RL, R-
- 28 S, R-KPV, R-U, and R-RLC.
- 29 • Building and lot development will be in accordance with the associated zones.
- 30 • Signage shall be in accordance with existing Sign code.
- 31 • Building, electrical and fire safety requirements shall be in accordance with existing state and
- 32 local code, MUBEC, and Fire Marshall and state Sprinkler Code requirements.
- 33 • Parking requirements will be consistent with existing code. Marijuana retail will follow retail
- 34 uses; marijuana cultivation, manufacturing, processing and testing will follow light industrial
- 35 uses.

36 ***Permitted or Special Exception Uses***

- 37 • Recreational retail stores will be allowed in zones ~~B-PK~~MU-N, MU, C-1, C-2, and C-3.
- 38 • Medical and recreational cultivation facilities, manufacturing facilities, and testing facilities will
- 39 be allowed in zones ~~B-PK~~MU-N, C-1, C-2, C-3, and MU.
- 40 • Social clubs will be prohibited in all zones.

41 **B) LICENSING**

42 **Title 5 Business Licenses and Regulations** add 5.10 Marijuana Establishment Licensing

43 ***Purpose***

- 44 • Ensure local recreational and Registered Caregiver storefront marijuana operations are highly
- 45 regulated and controlled in Kittery.

46 ***Applicability***

- 47 • Applies to all cultivation, manufacturing, distribution, selling, and testing of recreational
- 48 marijuana other than for personal use.
- 49 • Applies to all cultivation, manufacturing, distribution, selling, and testing of medical marijuana,
- 50 excluding Registered Caregivers unless the Registered Caregiver is operating a storefront.

51 ***General Standards and Requirements***

- 52 • Town Council will be the licensing authority
- 53 • A committee comprised of the Town Manager and the Department Heads will review license
- 54 applications and make recommendations to Town Council.
- 55 • There will be four categories of licenses :
  - 56 ○ Retail Store
  - 57 ○ Cultivation
  - 58 ○ Manufacturing
  - 59 ○ Testing
- 60 • There will be a limit of 3 active ~~retail store~~-licenses total for retail and/or Registered Caregiver
- 61 storefront operations. There will be no limit on the number of licenses for cultivation,
- 62 manufacturing, and testing.



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- A separate license is required for each operation even if the operations are to occur in the same facility or complex.
  - There will be a local application fee commensurate with the cost of reviewing the application but no less than of \$6,000.
  - Only persons 21 years and older or business entities formed under Maine law may apply for a license.
  - License holders must
    - Be licensed by the State of Maine.
    - Have right title and interest in the property.
    - Control access to ensure only those 21 and older can enter and only authorized persons can access controlled areas such as storage, cash holding, etc. Adopt and provide access control plans.
    - Maintain the safety and security of the premises and all persons on-site.
    - Permit access to police, fire, and code enforcement officials without prior notice for the purpose of investigating complaints and/or license compliance checks.
    - Report any and all suspected illegal activity to the Kittery Police within 24 hours. A sign must be posted stating the same in a conspicuous location on the premises.
    - Must have a panic button wired to Kittery Police Dispatch within the establishment.
    - Adopt policies and procedures to limit the amount of cash on premises at any given time (limit to be defined).
    - Install and keep operational a monitored security system and fire alarm system at all times
    - Utilize an industry proven ventilation system to prevent marijuana odors from encroaching on adjacent lots and public places. Adopt policies and procedures for ongoing odor control management.
    - Adopt an integrated pest management plan to prevent pests, insects, mold, mildew, and plant diseases from spreading beyond the establishment.
    - Post a sign in a conspicuous location on the premises stating that marijuana is a Class 1 substance and illegal to cultivate, distribute and possess under Federal law.
    - Post in a conspicuous location within the establishment the state license and town license
    - Render marijuana-waste inert before disposing through a commercial waste hauler. License holders may compost as long as the composting area is licensed by the State of Maine, the composting area is secured, and no odors leave the composting area.
    - Ensure the extraction of THC is not performed using processes that contain butane.
    - ~~Enter into a Host Community Agreement with the Town.~~
    - Post a surety bond or escrow.
  - License will last for the duration of one calendar year commencing when the license is granted by the Town Council.

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- Licenses cannot be transferred to other locations. With the approval of Town Council licenses can be transferred to another individual or entity operating at the licensed establishment. ~~A transfer of a license will be subjected to a \$3,000.~~
  - Due to the limited number of available ~~retail~~ licenses, application for new or available ~~retail stores~~ licenses will be issued through a competitive process. A Request for Proposals will be issued by the Town Manager.
    - Submitted proposals must include certification of bonding and escrow, proof of right title and interest, certification from Central Maine Power that the electrical service can handle the projected load, company or personal history that demonstrates ability to operate in accordance with regulations and laws, business plan, security and access control plan, odor control plan, integrated pest management plan, cash policies and procedures, and other information as may be required to demonstrate the applicant can fulfill the requirements of the license.
    - Entities not selected to receive a license will receive a 50% refund of their application fee.
  - Upon granting of a license, a site review will be conducted by the Code Enforcement Officer, Fire Chief and Police Chief and no operations may begin until the site review has been successfully completed.
  - Licenses may be suspended or revoked for any violations of the license requirements
    - The license holder will cooperate in the investigation of any and all complaints of violation of state and local laws, and local license requirements.
    - Confirmed violations will be punishable by fines in a graduating manner of \$1,000 to \$5,000.
    - All violation investigation results will be reviewed by a committee comprising of the Town Manager, Police Chief, Fire Chief, and Code Enforcement Officer. Others may be involved as deemed appropriate.
    - Two violations in a 12-month period will result in a recommendation to Town Council to temporarily suspend the license and to adopt stipulations required to lift the suspension.
    - Those with a suspended license cannot operate until they satisfy all stipulations placed on it.
    - More than two violations in a 12-month period will result in a recommendation to Town Council to revoke the license.
    - Confirmed violations will be reported to the Town Council within 72 hours.
    - Any entity or person who has had their state or local marijuana license revoked is prohibited from obtaining local marijuana license for 2 years from the date of revocation.
  - The Town Council has the authority to deny renewal of a license for violations of state and local law, or license requirements.
  - Appeals of fines, suspensions and revocations shall be heard by the Town Council.

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**~~C) Host Community Benefit Agreement~~**

- ~~• Licensees will be required to enter into a Host Community Benefit Agreement. The Host Community Benefit Agreement will require the licensee to provide financial support for the following:
  - ~~○ Training and associated equipment for Police, Fire, and Code Enforcement staff for the enforcement of state and local laws and regulations related to marijuana use and distribution.~~
  - ~~○ Educational curriculum, school based programs, and public service campaigns designed to address under age access, public intoxication, operating a vehicle while intoxicated, and other public health and safety issues.~~
  - ~~○ Retail marijuana compliance check inspections.~~~~
- ~~• Each entity having one or more marijuana licenses shall enter into a Host Community Benefit Agreement.~~
- ~~• Host Community Benefit Agreement will require annual payment to the town to offset the impact to the community, subject to state authorization.~~

**C) PERSONAL USE NUSIANCES**

**8.2 Property Maintenance**

- No owner of any lot shall permit noxious odors from marijuana growth, processing, or use to pass beyond the property line and/or prevent the use and quiet enjoyment of adjacent lots and public places.