



TOWN OF KITTERY

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Telephone: (207) 475-1329 Fax: (207) 439-6806**

**WORKSHOP
Town Council**

Title 5 and Title 16 – Marijuana

July 19, 2021

5:00PM Council Chambers

Workshop Questions

1. What are the current home occupation rules and requirements; are medical caregivers being required to do more or have less?

- Per Title 16.8.22.1 (see attached) all home occupations are required to be permitted.
- All home occupations are subject to annual inspection and renewal of permits. Inspections are limited to the verifying:
 - Life safety (emergency exits, etc.)
 - Conformance with permit approval and permitted plan (no deviation, unpermitted increases, etc.)
- The proposed ordinance does shift Home Caregiver operations from a Board of Appeals review process to a Planning Board review process.
 - Adds marijuana specific standards that were more vaguely covered by the standard Home Occupation ordinance.
 - PB has a greater familiarity and more structured process for considering matters related to site plan and neighborhood impacts.
 - BOA has expressed a desire for the home occupation review to shift to the PB in the recent past; and specifically, as a result of the caregiver operations on State Road.
- The proposed ordinance requires the home caregiver to get licensed as well. That is not necessarily required of other home-based businesses.

OPTION: Eliminate the Title 5-based license for a Medical Marijuana Caregiver. Retain the Title 16 Home Establishment permit to be consistent with other home-based businesses in Town.

2a. Explain the 500 foot buffer from schools, daycares.

- Draft ordinance printed on June 28 had a clerical error that resulted in the 250 feet buffer from daycares not being struck out. That has been corrected on the attached updated draft.
- State law is 1,000 feet, but allows local ordinance to reduce to 500 feet.
- See attached map showing 500 feet and 1,000 feet buffer from public and private schools as they apply to the proposed zones.
- Removed the daycare buffer to conform with state law
 - Daycares are more fluid in their definition and/or establishment and would be difficult to track conformance from year to year.

OPTION: Increase buffer from schools to 1,000 feet.

2b. What about a buffer from fields?

- State law does not include this as a buffer.
 - Not clear that a regulated marijuana business is hazardous or detrimental to a playing field.
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3. What is the issue with a buffer between marijuana businesses and limited licensing?

- The PB recommended 1,500 feet buffer between marijuana businesses to address clustering. Why is clustering a perceived issue:
 - Traffic
 - Diverting desired redevelopment in critical areas
 - Limit the number of possible businesses – handled by limiting licenses
 - Proposal exempts clustering of “vertical integration” (i.e. manufacturing and sales in same location)

Traffic:

- The zones proposed for marijuana businesses were chosen due to their capacity to handle the business uses
- Buffer doesn’t directly reduce traffic impacts; (to note, eliminating the buffer doesn’t guarantee clustering will happen)

Diverting desired redevelopment in critical areas:

- Grow facilities have the potential to divert desired redevelopment in the C-1 and Mixed Use zone. Proposed ordinance addresses these
- Dispensary operations have been operating as storefronts in multi-use buildings without conflict

Counter points to buffer:

- Does not directly address issues identified
- Extremely difficult to implement for a new use not currently present in town
- Sets staff up for failure from the get go and PB to lawsuit for normal/routine delays that impact who gets permitted first
- Limit on number of businesses is more directly addressed by license cap

OPTION: Eliminate the buffer or eliminate the license cap. We cannot implement effectively with both.

4. Why five licenses?

- Current interest appears to be in C-1, C-2 and M-U zones (three zones).
- Town’s preliminary framework was for three; it was increased in discussions with petitioner.
- Five is small enough to not likely have a significant detrimental impact on the Town and large enough to allow for competition and market-maturity.
- With limitation of businesses handled through license limits rather than buffer, the Council can adjust the number with greater ease as it assesses the real impacts.

OPTION: Reduce or increase (we do not recommend less than three) or eliminate and go with buffer approach.

5. Discuss the concept of one license per owner/business.

- No direct local governmental purpose.
 - The Town cannot implement a “local” owner requirement, so the one license per business restriction does not directly support or assist local businesses.
 - It is fairly easy to game the system/demonstrate compliance on paper (i.e. create two LLCs).
 - What level of investigation would the staff be expected to perform to verify applicants are not gaming the system?
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6. Do the current medical marijuana caregivers on State Road, that are operating like storefronts, get grandfathered?

- The existing BOA permitted home occupation caregivers will become legally non-conforming until such time as their operations no longer conform with the permit.
 - The BOA approval goes to both the Applicant & Property Owner unless the BOA conditioned it otherwise
 - Change in operation
 - Change in layout, footprint, etc.
 - They will not count towards the limited licenses.
 - They cannot become legal medical marijuana storefronts or dispensaries, or adult use retail stores unless the Town makes the uses allowable in the BL and BL-1 zones.
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7. Is the Town breaking State law by regulating medical caregiver operations?

- No. See attached 558-C MRS §2429-D
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8. Why not do a lottery for licenses instead of first come first serve?

- We believe we can safely and fairly manage the first-come-first-serve approach.
 - Not clear how a lottery process can be implemented in a manner that protects the Town from process errors (real or perceived).
 - A lottery with a buffer does not work (see above).
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9. How do we ensure marijuana establishments are not a nightmare for their neighbors?

- Performance standards and review processes for permitting addresses understand impacts on abutting properties.
 - Proposed ordinance introduces marijuana specific standards (odor, safety, etc) via the Home Establishment.
 - The Town can in no way guarantee neighbor harmony. Unfortunately, neighbor disputes happen frequently and often fall under the category of civil disputes that are not within the Town’s jurisdiction to resolve.
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10. How many caregivers are there in Town?

- Four are permitted in accordance with existing Town Code. We don't know how many more are operating unpermitted.

**TITLE 5 - BUSINESS LICENSES and REGULATIONS
and
TITLE 16 – LAND USE CODE
MARIJUANA OPERATIONS**

1. ADD Title 5.11 Marijuana Businesses as follows:

CHAPTER 5.11 Marijuana Businesses

5.11.1. Purpose and Authority

The purpose of this Title is to set forth procedures and standards for the issuance of local licenses for Marijuana Businesses and Medical Marijuana Registered Caregiver Home Establishments in order to protect public health, safety and welfare.

5.11.2. Definitions

As used in this Title, the terms below are defined as indicated. All other terms used in this Title, if not defined below, are the same definition as set forth in 22 MRS § 2422 (for medical marijuana businesses), 28-B M.R.S. § 102 (for adult use marijuana businesses), or the Land Use and Development Code, Title 16 of the Kittery Town Code.

Applicant means a person who has submitted an application for licensure as a Marijuana Business pursuant to this Chapter.

Licensed Premises means the premises specified in an application for a license pursuant to this Title or within a license issued pursuant to this Title.

Licensee means a person licensed pursuant to this Title.

Licensing Authority means the Town Council or Town Manager as designated in this Title to be the issuer of the particular type of Marijuana Business license.

Marijuana Business means an Adult Use Marijuana Store, Medical Marijuana Registered Dispensary, Medical Marijuana Caregiver Retail Store, Marijuana Cultivation Facility, Marijuana Manufacturing Facility, or Marijuana Testing Facility, all as defined in the Town of Kittery Land Use Ordinance.

Marijuana Retail Store means a Medical Marijuana Registered Dispensary, Medical Marijuana Caregiver Retail Store or an Adult Use Marijuana Store.

Medical Marijuana Registered Caregiver Home Establishment means a permitted medical marijuana registered caregiver business operating within a primary dwelling unit.

Owner means a person whose beneficial interest in a Marijuana Business is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of the Marijuana Business and/or has a controlling interest in the Marijuana Business.

Person means a natural person, partnership, association, company, corporation, limited liability company or

29 organization, or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not
30 include any governmental organization.

31 Premises means the physical location at which a Marijuana Business is to conduct its business.

32 State License means any license issued by the State Licensing Authority.

33 State Licensing Authority means the authority created or designated by the state for the purpose of regulating
34 and controlling licensing for Marijuana Businesses.

35 Town Manager means the Town Manager of the Town of Kittery or designee.

36 **5.11.3. License Requirement**

37 A Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment may not begin or
38 continue operations unless it has and is in possession of a license issued pursuant to this Title. Marijuana
39 Registered Caregivers that hold an approved land use permit (major home occupation approval) and/or are
40 operating as of the effective date of this Section must submit a completed application within 30 days of the
41 effective date, and have a grace period of 60 days after the effective date to receive a license, which may be
42 extended by order of the Council if justified due to the anticipated timeline of the review process.

44 **5.11.4. Licensing Authority**

45 All Medical Marijuana Registered Caregiver Home Establishment license applications, whether new or
46 renewal, must be reviewed and may be approved by the Town Manager. All other initial license applications
47 are to be reviewed and may be approved by the Town Council after public hearing. The Town Manager is
48 the Licensing Authority for renewal licenses, as specified in Section 5.11.5.E.

49 **5.11.5. Licensing Procedures**

50 The review procedures described below are the same for initial license applications as well as renewals,
51 unless otherwise indicated. In reviewing license applications, the Licensing Authority and any consulting
52 Town officials may consider the approval standards under this Title as well as other applicable local, state or
53 federal laws and, for license renewals, the Licensee’s record of compliance with the same.

54 A. Application. License applications must be submitted to the Town in writing using a form prepared by
55 the Town for the purpose and must include all information required by this Title and by the form.
56 Applications for initial licensure of Marijuana Retail Stores may not be accepted until the applicant has
57 been pre-certified in accordance with Section 5.11.10.B.

58 B. Initial Review. The Town Manager is responsible for the initial investigation of the application to
59 ensure compliance with the requirements of this Title and to obtain recommendations from other Town
60 officials as required.

61 C. License Conditions. The Licensing Authority has the authority to impose any conditions on a license
62 that may be reasonably necessary to ensure compliance with the requirements of this Title or to address
63 concerns about operations. Failure of any Licensee to comply with such conditions are considered a
64 violation of the license and of this Title.

- 65 D. Staff Review. No license may be granted by the Licensing Authority until the Town Manager, Police
66 Chief, Fire Chief, Code Enforcement Officer, and other staff as deemed appropriate by the Town
67 Manager, have all made positive recommendations regarding the Applicant’s ability to comply with this
68 Title or any other applicable Town ordinance, Planning Board conditions of approval, or state or federal
69 law enforced by such officials.
- 70 E. Renewal. For renewal licenses, the application, fee and review process are the same as for initial
71 licenses except that the Town Manager is the Licensing Authority. If any reviewing staff member finds
72 that new conditions should be attached to the renewal license or that the renewal license should be
73 denied, the renewal application must be forwarded to the Town Council for final action. Renewal
74 licenses for Marijuana Retail Stores may be granted by the Town Manager only upon a finding that the
75 Store has in the past license term been operating in accordance with this Title as well as with the
76 Store’s previously submitted Operations Plan.
- 77 F. Type of License. Licenses may be approved only for the type(s) of use identified in the application. A
78 Licensee who intends to expand or convert the Licensed Premises to a different type of use that is not
79 specifically approved in a license must obtain a new license for that use.
- 80 G. State Approvals. Any Licensee that is required to obtain approval from the State of Maine will provide
81 the Town copies of all necessary approvals prior to operating the licensed business.
- 82 H. Inspection. Any Licensee must, prior to operating the licensed business, contact the Town to request an
83 inspection to determine the compliance, as built, with the requirements of this Title, any conditions of
84 licensure, and the submitted Operations Plan (if applicable). Any municipal official with authority to
85 make recommendations, grant licenses or enforce this or other municipal ordinances regarding
86 Marijuana Businesses or Medical Marijuana Registered Caregiver Home Establishments has authority
87 to enter the premises of an Applicant or Licensee without notice during operating hours to make any
88 inspection reasonably necessary to ensure continued compliance with all applicable Town ordinances.
- 89 I. License term. Each license issued under this Title is valid for the term of license granted by the State
90 License Authority (“the license year”), or otherwise for one (1) year from the date of issuance.
91 Applications for renewal licenses should be submitted no fewer than 60 days prior to expiration of the
92 existing term to allow for timely processing. Any Licensee who fails to apply for a renewal license
93 prior to expiration of the existing term does not have authority to operate until a renewal license is
94 granted. A late fee of 10% of the total license fee will be assessed to applications submitted 1 to 30
95 days past expiration of the existing license, and 20% will be assessed for applications submitted
96 thereafter. Any Marijuana Retail Store which fails to obtain a renewal license within 30 days following
97 expiration of the existing term forfeits its license, unless the applicant timely submitted the application
98 and the delay is due to circumstances not within the applicant’s control.
- 99 J. Forfeiture. A License is forfeited if the Licensee:
100 1. Fails to obtain a renewal license within thirty (30) days of expiration of an existing license;
101 2. Makes any other active use of the Licensed Premises other than for the licensed business
102 operation; or

103 3. Is not actively operating the licensed business for a period exceeding six (6) consecutive
104 months, except that the Licensing Authority may, upon written request from the Licensee, allow for
105 a suspension of use of up to one year if the suspension in use is caused by damage to the Licensed
106 Premises, renovation, repair, active attempts to sell the Licensed Premises as a turnkey business
107 operation, or other bona fide circumstances out of the Licensee’s control.

108 **5.11.6. Application Submission Requirements**

109 Each applicant for a license must complete and file an application on the form provided by the Town,
110 together with the applicable license fee. If multiple types of business operations are to be conducted on a
111 single Premises, the applicant must pay the application fee for each type of business. Applications must
112 include:

113 A. Proof of the Applicant’s right, title, or interest in the Premises, such as a deed, lease, sublease, (must
114 include lease and authorization for sublease, if applicable) or purchase and sale agreement.

115 B. A copy of the Applicant’s State License application and supporting documentation, as submitted to the
116 State Licensing Authority, if a State License is required.

117
118 C. Evidence of all state approvals or conditional approvals required to operate the business, including, but
119 not limited to, a State License as defined by this Title, caregiver registration, a State retail certificate, or a
120 State health license.

121 D. If not included in the Applicant’s State License application, attested copies of any articles of
122 incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern
123 the entity that will own and/or operate the business.

124
125 E. If not included in the Applicant’s State License application, an affidavit on a form to be provided by the
126 Town that identifies all owners, officers, members, managers or partners of the Applicant, their
127 ownership interests, and their places of residence at the time of the application and for the immediately
128 preceding three (3) years.

129 F. A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant
130 seeking a license allowing the Town of Kittery or its officials to obtain criminal records and other
131 background information related to the individual.

132 G. Evidence of all land use approvals or conditional land use approvals required to operate the business,
133 including, but not limited to building permit, special exception approval, site plan review approval,
134 and/or a change of use permit. Where site plan approval is required, evidence of submission of a
135 complete site plan review application is sufficient, but any license issued is conditioned upon site plan
136 approval and issuance of any necessary building or occupancy permits.

137 H. Evidence of all other local approvals or conditional approvals required to operate the business, including
138 any applicable food or victualer’s license. If the Marijuana Business or Medical Marijuana Registered
139 Caregiver Home Establishment is not in use as of the date of license application, the applicant must list
140 any licenses required and issuance of such licenses will be made a condition of the Marijuana Business
141 License.

- 142 I. A description of the premises for which the license is sought, including a plan of the premises.
- 143 J. A copy of any state or municipal license held for any other Marijuana Business, including any home
144 occupation, owned or operated by the Applicant or by any officer, owner, subsidiary, member, manager
145 or partner of the Applicant, as well as any notices of violation received from the state or municipality for
146 such Marijuana Business and proof that any violation has been resolved.
- 147 K. Certification from the Fire Chief that the location of the Marijuana Business or Medical Marijuana
148 Registered Caregiver Home Establishment on the subject Premises will not pose an undue risk of fire or
149 other safety hazard.
- 150 L. For Marijuana Retail Stores, an Operations Plan, describing the Applicant's:
- 151 1. Security plan;
- 152 2. Provisions to ensure against loitering and using marijuana and marijuana products on or near the
153 Premises;
- 154 3. Protocols for hiring and training employees;
- 155 4. Experience and training in the State of Maine's seed-to-sale tracking system;
- 156 5. Protocols for odor control and disposal of waste marijuana or marijuana products; and
- 157 6. Protocols for ensuring the safety and security of product.
- 158 7. Fire Suppression annual certification

159 If the Town determines that a submitted application is not complete, the Town must notify the applicant of
160 the additional information required to process the application. If such additional information is not
161 submitted within thirty (30) days of the Town's request, the application may be denied,

162 **5.11.7 Transfer of Ownership**

163 A license for a Marijuana Business may be transferred to another owner if an updated application form and
164 ownership affidavit are provided to the Town and all persons listed on the affidavit successfully pass
165 background checks and otherwise meet the criteria of this Title. See Section 5.11.10.E regarding transfer of
166 licenses for Marijuana Retail Stores.

167 **5.11.8 Transfer of Location**

168 Marijuana Business and Medical Marijuana Registered Caregiver Home Establishment licenses are limited to
169 the Premises for which they are issued and are not transferable to a different location. A Licensee who seeks
170 to operate in a new location must acquire a new license for that location.

171 **5.11.9 Limit on and Special Procedures for Marijuana Retail Stores**

172 A. Limit on marijuana retail store licenses. The total number of licenses issued for Marijuana Retail Stores
173 may not exceed five.

174 B. Pre-application required. Applications for initial licensure of Marijuana Retail Stores will not be
175 accepted for processing unless and until the applicant has successfully completed a pre-application
176 process as set forth here.

- 177 1. Pre-application forms will be available starting on the effective date of this Title. Applicants
178 seeking licensure as a Marijuana Retail Store must complete the form and return it to the Town
179 along with the following supporting documentation:
180 a. Completed, signed and notarized ownership affidavit
181 b. Pre-application fee
182 c. Evidence of right, title and interest in the Premises (deed, purchase and sale agreement, lease
183 and/or sublease)
184 d. Evidence demonstrating the applicant's financial capacity to build out (if applicable) and
185 operate the Marijuana Retail Store (e.g., bank letter, letter of credit, loan commitment)
186 e. Evidence demonstrating that the applicant has applied for conditional licensure from the State
187 of Maine
- 188 2. Upon receipt of a pre-application, the Town must note the date and time of the receipt and,
189 without unreasonable delay, process the application to determine whether all required fields have
190 been filled and all required supporting documentation has been provided. If the Town
191 determines that a submitted pre-application is not complete, it must notify the applicant of the
192 additional information required to process the pre-application. If such additional information is
193 not submitted within thirty (30) days of the Town's request, the pre-application will be rejected.
- 194 3. The Town Manager must evaluate complete pre-applications and certify the eligibility of
195 applicants if they meet the following standards:
196 a. The applicant has demonstrated right, title and interest in the Premises;
197 b. The applicant has demonstrated adequate financial capacity to build out (if applicable) and
198 operate the retail store.
199 c. The Premises is located in a zone in which Marijuana Retail Stores are permitted.
200 d. The applicant has applied for or received conditional license approval from the State of Maine
201 for the subject Marijuana Retail Store.
- 202 4. The Town Manager must issue a written decision to the applicant indicating whether it has met
203 the standards for pre-application certification. Applications for licensure may be submitted as
204 soon as the certification decision is issued.
- 205 C. Priority. License applications for Marijuana Retail Stores will not be received or processed until the date
206 announced by the Town as the first day license applications will be accepted. Any license applications
207 received by mail prior to the announced date will be returned to the sender. Licenses for Marijuana
208 Retail Stores will be assigned priority based upon the date and time a completed pre-application was
209 received by the Town. The first five (5) certified applicants will be invited to provide completed license
210 applications within thirty (30) days of certification, which will be processed in accordance with Section
211 5.11.6
- 212 D. Waiting list procedures. If a license for a Marijuana Retail Store becomes available, the Town will
213 invite the pre-certified applicant with the next priority to apply for licensure. If such applicant does
214 not submit an application within thirty (30) days from invitation, the Town must proceed to the next
215 applicant. Applications will not be processed from the waiting list if there have been any material
216 changes to ownership, as indicated on the ownership affidavit, or where there is a change to location

217 of the Premises.

218

219 E. Change in ownership of Marijuana Retail Store. In the event of a proposed change in ownership of a
220 Marijuana Retail Store (including a material change of members of an LLC or partnership), the new
221 owner(s) must apply for a new license within thirty (30) days following the date of the transfer by
222 submitting a full, completed / updated application package to the Town. The application is subject to
223 the same application process as new licenses and, after initial staff review, will be presented to the
224 Town Council for consideration if the proposal involves a change in majority ownership or control of
225 the Marijuana Retail Store. If the new owner does not apply for a new license within said thirty (30)
226 day period, the license will be considered forfeited. The license may not be transferred if any active
227 use other than for the licensed Marijuana Retail Store has been made of the Licensed Premises prior
228 to or within the thirty (30) days following the transfer of ownership.

229 **5.11.10 Denial, Revocation or Suspension of a License**

230 A license application for a Marijuana Business or Medical Marijuana Registered Caregiver Home
231 Establishment must be denied by the Licensing Authority, suspended by the Town Manager, or after notice
232 and hearing revoked by the Town Council, if the Applicant, or any Owner of the Applicant or Licensee:

233 A. Fails to meet the requirements of this Title.

234 B. Is not at least twenty-one years of age.

235 C. Has had a license required for the Marijuana Business or Medical Marijuana Registered Caregiver
236 Home Establishment suspended or revoked by the Town, by a municipality in the State of Maine, or
237 by the State of Maine.

238 D. Is in violation of this or any ordinance or has unpaid penalties assessed by a court, related to the
239 Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment.

240 E. Has not acquired all necessary state and local approvals (other than final state approval) prior to
241 issuance of the license.

242 F. Fails to meet zoning or other requirements of the Land Use and Development Code.

243 G. Has been convicted of a criminal violation arising out of operation of a Marijuana Business.

244 H. Has, within ten years prior to the date of the application, been convicted of selling marijuana, alcohol,
245 or any scheduled drug to a minor.

246 I. Has provided false or misleading information in connection with the license application.

247 **5.11.11 Approval and Operating Requirements**

248 In order to obtain and retain a license pursuant to this Title, the Applicant/Licensee must demonstrate
249 that the following requirements are met. The Licensee must comply with each of these requirements
250 during the term of the license:

- 251 A. Display of License. The current License must be displayed at all times in a conspicuous location
252 within the Premises.
- 253 B. Premises. All Licensed Premises must be fixed, permanent locations. Licensees are not permitted
254 to operate Marijuana Establishments in other than the Licensed Premises, such as at farmer’s
255 markets, farm stands or kiosks.
- 256 C. Loitering. The facility owner/operator must make adequate provisions to prevent patrons or other
257 persons from loitering on the Premises. It is the Licensee’s obligation to ensure that anyone found to be
258 loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a
259 Licensed Premises is ordered to leave.
- 260 D. Other laws. A Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment
261 must meet all operating and other requirements of state and local law. To the extent the State of Maine
262 has adopted or adopts in the future any law or regulation governing marijuana businesses that conflicts
263 in any way with the provisions of this Title, the more restrictive provisions control.
- 264 E. Changes to operations. Marijuana Businesses and Medical Marijuana Registered Caregiver Home
265 Establishment must operate in accordance with all material representations made in the approved
266 license application and Operations Plan (if applicable). If the Licensee is required to notify the State of
267 a change related to the Marijuana Business, the Licensee must promptly provide the Town with a copy
268 of such notification. If the Town determines that the change is not in accordance with the requirements
269 of this Title, or requires additional conditions of approval, the change must be forwarded to the Town
270 Council for consideration.

271 **5.11.12 Appeals**

- 272 A. The following appeals may be decided by the Town Council in a *de novo* hearing in
273 which it will hear evidence on the application and make its own findings of fact and conclusions of
274 law:
- 275 1. Appeal of the Town Manager’s denial of an application.
- 276
- 277 2. Appeal by any aggrieved party having legal standing of any decision by the Town Manager to grant a
278 license under this Title.
- 279
- 280 3. Appeal by a Licensee challenging conditions attached to a License, to which the Licensee objects.
- 281 Appeals must be filed with the Town Clerk within thirty (30) days of the date of the decision subject to
282 appeal. The Town Council must hold the hearing on the appeal and render a decision within thirty (30)
283 days of the date of the appeal, unless all parties consent to a delay.
- 284 B. Appeals from any decision of the Town Council under this Title may be made only to York County
285 Superior Court within thirty (30) days of the date of the decision being appealed.

286 **5.11.13 Enforcement and Penalties**

287 The operation of any Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment

288 without the required license or in violation of the requirements of this Title is a violation of this Title. The
 289 Town Manager must enforce the provisions of this Title. A violation of any provision of this Title is a
 290 civil violation, and a civil penalty of \$250 to \$2,500 applies and may be assessed for each day that the
 291 violation continues. The penalty for operating a Marijuana Business or Medical Marijuana Registered
 292 Caregiver Home Establishment without a valid license is \$2,500 per day for Marijuana Retail Stores and
 293 \$500 per day for other Marijuana Businesses or Medical Marijuana Registered Caregiver Home
 294 Establishments. The Town Manager may suspend the license, and the Town Council may revoke the
 295 license after notice and hearing.

296 **5.11.14 Other Laws**

297 Except as otherwise specifically provided herein, this Title incorporates the requirements and procedures
 298 set forth in the Maine Marijuana Legalization Act, 28-B M.R.S. Chapter 1, as may be amended and the
 299 Maine Medical Use of Marijuana Act, 22 M.R.S. Chapter 558-C, as may be amended. In the event of a
 300 conflict between the provisions of this Title and the provisions of said Acts or any other applicable state
 301 or local law or regulation, the more restrictive provision must control.

2. ADD Marijuana Business License Fees to Appendix A as follows:

<u>Marijuana Retail Store – Preapplication fee</u>	<u>\$750</u>
<u>Marijuana Retail Store – License fee</u>	<u>\$6,000</u>
<u>Marijuana Cultivation Facility</u>	
<u>Tier 1</u>	<u>\$750</u>
<u>Tier 2</u>	<u>\$1,500</u>
<u>Tier 3</u>	<u>\$2,000</u>
<u>Tier 4</u>	<u>\$3,000</u>
<u>Marijuana Manufacturing Facility</u>	<u>\$ 3,000</u>
<u>Marijuana Testing Facility</u>	<u>\$ 3,000</u>
<u>Medical Marijuana Caregiver Home Establishment</u>	<u>\$ 100</u>
<u>Transfer of license – other than Marijuana Retail Stores</u>	<u>\$750</u>

3. AMEND Title 16.2 Definitions for marijuana operations as follows:

302 ~~MARIJUANA MEDICAL USE—The cultivation, manufacturing, or distribution of cannabis by a medical~~
 303 ~~marijuana cultivation facility, a medical marijuana dispensary, a medical marijuana testing facility, or a~~
 304 ~~primary caregiver, as defined in § 16.2.2 of this Code. This definition is not intended to restrict a caregiver~~
 305 ~~that is a licensed hospice provider, long-term nursing care facility or convalescent care facility from~~
 306 ~~distributing cannabis to their qualifying patients, per 22 M.R.S., Maine Medical Use of Marijuana Act.~~

307 ~~MARIJUANA RETAIL USE—The cultivation, manufacture, distribution or selling of cannabis by a retail~~

308 ~~marijuana establishment or retail marijuana social club, as referenced in 7 M.R.S.~~

309 ~~MEDICAL MARIJUANA CULTIVATION FACILITY~~ — A facility registered in accordance
310 with 22 M.R.S. § 2428 that cultivates and manufactures marijuana or related supplies for a registered medical
311 marijuana dispensary under common management and operating under the same state and local license(s).

312 ~~MEDICAL MARIJUANA DISPENSARY~~ — A not-for-profit entity registered under 22 M.R.S. § 2428 that
313 acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses
314 marijuana or related supplies and educational materials to qualifying patients who have designated the
315 dispensary to cultivate marijuana for their medical use, and the primary caregivers of those patients.

316 ~~MEDICAL MARIJUANA QUALIFYING PATIENT or PATIENT~~ — A person who has been
317 diagnosed by a medical provider as having — a debilitating medical condition and who possesses a valid
318 written certification regarding medical use of marijuana, as defined under 22 M.R.S. § 2422.

319 ~~MEDICAL MARIJUANA TESTING FACILITY~~ — A public or private laboratory that:

320 ~~A. — Is licensed, certified or otherwise approved under 22 M.R.S. § 2423-A to analyze contaminants in,
321 and the potency and cannabinoid profile of, samples; and~~

322 ~~B. — Is accredited pursuant to standard International Standards Organization/International Electrotechnical
323 Commission 17025 of the International Organization for Standardization by a third-party accrediting body
324 or is certified, registered, or accredited by an organization approved by the state.~~

325 MARIJUANA, ADULT USE STORE means a facility licensed under 28-B MRS Chapter 1 to purchase
326 adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, and to sell adult use
327 marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

328 MARIJUANA BUSINESS means an Adult Use Marijuana Store, Marijuana Cultivation Facility, Medical
329 Marijuana Registered Dispensary, Medical Marijuana Caregiver Retail Store, Marijuana Manufacturing
330 Facility, or Marijuana Testing Facility.

331 MARIJUANA CULTIVATION FACILITY means a facility licensed by the State of Maine to purchase
332 marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package marijuana; to
333 sell marijuana, marijuana seedlings, plants and seeds to products manufacturing facilities, marijuana stores,
334 caregivers or other cultivation facilities.

335 Tier 1: Up to 500 square feet of plant canopy

336 Tier 2: Up to 2,000 square feet of plant canopy

337 Tier 3: Up to 7,000 square feet of plant canopy

338 Tier 4: Up to 20,000 square feet of plant canopy

339 MEDICAL MARIJUANA CAREGIVER RETAIL STORE means a store that has attributes generally

340 associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours,
341 accessibility to the public and sales of goods or services directly to a consumer, and that is used by a
342 registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

343 **MARIJUANA MANUFACTURING FACILITY** means (1) a registered tier 1 or tier 2 manufacturing
344 facility, as designated by state law, or a person authorized to engage in marijuana extraction under 22 MRS
345 §2423- F; or (2) a facility licensed under M.R.S. 28-B, Subchapter 2 to purchase marijuana from a cultivation
346 facility or another products manufacturing facility; to manufacture, label and package marijuana and
347 marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products
348 manufacturing facilities.

349 **MARIJUANA TESTING FACILITY** means a public or private laboratory that is authorized and accredited
350 in accordance with state law for the research and analysis of marijuana, marijuana products or other
351 substances for contaminants, safety or potency.

352 **MEDICAL MARIJUANA REGISTERED CAREGIVER** means a person or an assistant of that person
353 registered in accordance with state law to provide care for a qualifying patient in accordance with state law.

354 **MEDICAL MARIJUANA REGISTERED CAREGIVER HOME ESTABLISHMENT** means a medical
355 marijuana registered caregiver business operating within the caregiver’s primary dwelling unit.

356 **MEDICAL MARIJUANA REGISTERED DISPENSARY** means an entity registered under 22 M.R.S. §
357 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or
358 dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying
359 patients and the caregivers of those patients.

4. ADD Medical Marijuana Registered Caregiver Home Establishment as a Special Exception Use to ALL Zones.

360 Medical Marijuana Registered Caregiver Home Establishment

5. AMEND Title 16.3 Land Use Zone regulations to allow marijuana operations in certain zones.

361 § 16.3.2.11 **Commercial (C-1, C-2, C-3).**

362 (1) C-1 special exception uses.

363 (p) Marijuana Business, except a Marijuana Cultivation Facility, or if,

364 **[NOTE: (NOT PART OF DRAFT ORDINANCE) STAFF ARE NOT RECOMMENDING THE**
365 **FOLLOWING PROVISION]**

366 i. Not located within 1,500 feet of another Marijuana Business unless:

367 a. the nature of the Marijuana Businesses are functionally distinct and mutually dependent;

368 b. the Marijuana Businesses are located on the same lot of record; and

369 c. the Marijuana Businesses are under common ownership

370 (2) C-2 special exception uses.

371 (q) Marijuana Business, if:

372 [NOTE: (NOT PART OF DRAFT ORDINANCE) STAFF ARE NOT RECOMMENDING THE
373 FOLLOWING PROVISION]

374 i. Not located within 1,500 feet of another Marijuana Business unless the nature of the Marijuana

375 a. Businesses are functionally distinct and mutually dependent;

376 b. the Marijuana Businesses are located on the same lot of record; and

377 c. the Marijuana Businesses are under common ownership

378 (3) C-3 special exception uses.

379 (q) Marijuana Business, if:

380 [NOTE: (NOT PART OF DRAFT ORDINANCE) STAFF ARE NOT RECOMMENDING THE
381 FOLLOWING PROVISION]

382 i. Not located within 1,500 feet of another Marijuana Business unless: [

383 a. the nature of the Marijuana Businesses are functionally distinct and mutually dependent;

384 b. the Marijuana Businesses are located on the same lot of record; and

385 c. the Marijuana Businesses are under common ownership

386 § 16.3.2.13 **Mixed-Use MU.**

387 C. Special exception uses.

388 19. Marijuana Business, except a Marijuana Cultivation Facility, or if:

389 [NOTE: (NOT PART OF DRAFT ORDINANCE) STAFF ARE NOT RECOMMENDING THE
390 FOLLOWING PROVISION]

391 i. Not located within 1,500 feet of another Marijuana Business unless:

392 a. the nature of the Marijuana Businesses are functionally distinct and mutually dependent;

393 b. the Marijuana Businesses are located on the same lot of record; and

394 c. the Marijuana Businesses are under common ownership

6. ADD Marijuana Businesses to Title 16 Design and Performance Standards for Built Environment as follows:

395 §16.8.29 Marijuana Businesses

396 16.8.29.1 General

397 This section regulates Marijuana Businesses as defined uses within the Town of Kittery. The permitting

398 standards outlined here must be adhered to for all Marijuana Businesses, in addition to other applicable
399 standards in this and other ordinances or state law.

400 **16.8.29.2 Standards**

401 Marijuana Businesses must meet the following standards:

402 A. Marijuana Businesses may not locate within 500 feet of a public or private school measured from the
403 exterior wall of the Marijuana Business in a straight line to the property line of the protected use.
404 ~~Marijuana Businesses may not locate within 250 feet of a State-Licensed daycare of any size, measured~~
405 ~~from the exterior wall of the Marijuana Business to the property line of the protected use~~ This section does
406 not prohibit the activity of a caregiver or other authorized individual from administering medical
407 marijuana to a qualified patient who is located within one of these protected areas.

408 B. Marijuana Businesses may not have any odor of marijuana detectible beyond the area controlled by the
409 business, whether that be a leased or owned area that is a portion or all of a recorded parcel of land.
410 Odors must be controlled by whatever best practices exist.

411 C. Marijuana grown by any Marijuana Business may be grown indoors only. For the purpose of this section
412 hoop houses or outdoor tunnels must not be considered as an indoor growing facility and are prohibited
413 for marijuana cultivation by a Marijuana Business.

414 D. The design of any building containing a Marijuana Business must conform to the standards within this
415 Title and the Town of Kittery Design Handbook.

416 E. The area of any Marijuana Business accessible to customers must be no less than 400 nor more than
417 2,000 square feet.

418 F. Parking must conform to Article X.

419 G. Any building containing a Marijuana Business must be protected by fire suppression measures and fire
420 alarms to the satisfaction of the Fire Chief and in accordance with all applicable building codes.

421 H. The Owner of any Marijuana Business, at the time of application for a building permit, must provide an
422 affidavit from a master electrician or electrical engineer certifying that the electrical components can
423 meet the electrical load demands of the use.

424 I. Security.

425 1. The Licensed Premises must have video surveillance capable of covering the exterior and interior of
426 the facility. The video surveillance system must be operated with continuous recording twenty-four
427 hours per day, seven days per week and video retained for a minimum duration of thirty (30) days.
428 Such records must be made available to law enforcement agencies when investigating a criminal
429 complaint.

430 J. The Licensed Premises must have an approved wastewater discharge plan in accordance with Title 13.

431 K. The Licensed Premises must have exterior lighting that conforms with this Title and the Town of Kittery's
432 Design Handbook. The Planning Board, at its discretion, may require motion sensors covering the full
433 perimeter of the building(s).

7. ADD Medical Marijuana Registered Caregiver Home Establishment to Title 16 Design and Performance Standards for Built Environment as follows:

434 **§16.8.30 Medical Marijuana Registered Caregiver Home Establishment**

435 **16.8.30.1 General**

436 A. A Medical Marijuana Registered Caregiver Home Establishment may not conduct activities that would
437 qualify the use as a Medical Marijuana Registered Dispensary, Adult Use Marijuana Store, Medical
438 Marijuana Caregiver Retail Store, Marijuana Manufacturing Facility or Marijuana Testing Facility.

439 B. Any Medical Marijuana Registered Caregiver legally operating with Town approval as a Home
440 Occupation as of the Effective Date of this Section, but otherwise not meeting the definition of a Medical
441 Marijuana Registered Caregiver Home Establishment, may continue to operate provided it has a valid
442 Medical Marijuana Registered Caregiver Home Establishment license from the Town and any applicable
443 State License, and is maintained in accordance with this Title. Such operations may not be built, used or
444 occupied in any way that constitutes a material difference from any representations in either the approved
445 application, Findings of Fact, or approval conditions for the Major Home Occupation. If majority
446 ownership of such an operation is transferred to any other person(s), the business must be brought into
447 conformance with the definition and standards applicable to a Medical Marijuana Registered Caregiver
448 Home Establishment, or may be permitted and licensed as any other type of Marijuana Business allowed
449 on the property.

450 **16.8.30.2 Standards**

451 A Medical Marijuana Registered Caregiver Home Establishment must meet the following standards, except
452 that a Medical Marijuana Registered Caregiver legally operating with Town approval as a Major Home
453 Occupation as of the Effective Date of this Section is not required to meet these standards to the extent
454 the Major Home Occupation application, as approved, specifically allowed activities, uses or
455 development that are not in conformance with these standards.

456
457 A. Manufacturing of medical marijuana products may occur only in zoning districts where a Marijuana
458 Manufacturing Facility is permitted.

459 B. A Medical Marijuana Registered Caregiver Home Establishment is restricted to a dwelling unit serving as
460 the primary residence of the Registered Caregiver. Proof of primary residence will be determined by
461 voter registration, vehicle registration, property tax bill and/or other documentation acceptable to the
462 Town.

- 463 C. The Registered Caregiver must provide documentation demonstrating ownership of the dwelling unit or a
464 lease agreement permitting the registered caregiver to operate a Medical Marijuana Registered Caregiver
465 Home Establishment.
- 466 D. A Medical Marijuana Registered Caregiver Home Establishment must be an accessory use of the
467 property, and is limited to utilize 40% or 400-square feet, whichever is greater, of the total floor area
468 available within the dwelling unit.
- 469 E. A Medical Marijuana Registered Caregiver Home Establishment is permitted only to see patients,
470 provide consultations, and perform other functions, pursuant to 22 M.R.S. 558-C §2423-A.
- 471 F. Hours of operation may be between 7 am and 7 pm Sunday through Saturday inclusive, and must be by
472 appointment only.
- 473 G. A Medical Marijuana Registered Caregiver Home Establishment may not have more than three (3)
474 employees.
- 475 H. There must be adequate parking on the lot to accommodate the property's residents in accordance with
476 this Title and zone-specific standards of this Title; provided that at a minimum the site must include two
477 parking spots plus one spot for each employee.
- 478 I. A Medical Marijuana Registered Caregiver Home Establishment must mitigate offensive odors such
479 that they are not detectable by reasonable means at the property lines. Odors must be controlled by
480 whatever best practices exist.
- 481 J. A Medical Marijuana Registered Caregiver Home Establishment is permitted to cultivate a cumulative
482 total of 30 mature plants or 500 square feet of plant canopy, 60 immature plants, and unlimited
483 seedlings. Cultivation may occur indoors, outdoors, or both.
- 484 K. The installation and displaying of signage advertising the presence of a Medical Marijuana Registered
485 Caregiver Home Establishment on a lot is prohibited.

**8. ADD Marijuana Business and Medical Marijuana Registered Caregiver Home Establishment
Application and Review as follows:**

486 §16.10.3.8.1 Marijuana Businesses and Medical Marijuana Registered Caregiver Home
487 Establishments

- 488 A. The Planning Board is the reviewing authority for all applications for new Marijuana Business
489 applications.

490 §16.10.11 Medical Marijuana Registered Caregiver Home Establishment

491 §16.10.11.1 General

492 A. Pursuant to 22 MRS §2429-D, municipalities are prohibited from restricting the number of registered
493 caregivers operating within their jurisdiction. The regulation of registered caregivers as provided for
494 herein is not intended to proscribe their operation, but rather to promote the health, safety and welfare of
495 the Town of Kittery by ensuring that a registered caregiver home establishment is compatible with both
496 the area it is situated and the community as a whole.

497 §16.10.11.2 Permit required.

498 A. An applicant seeking Planning Board approval for a Medical Marijuana Registered Caregiver Home
499 Establishment must submit a complete application with the following furnished documents:

500 i. Proof of property ownership or lease agreement in the Town of Kittery;

501 ii. Proof of residency in Town of Kittery as determined by voter registration, vehicle registration or
502 other documentation deemed acceptable to the Town;

503 iii. All relevant State of Maine license information demonstrating the applicant as a valid registered
504 caregiver;

505 iv. A site plan that depicts all proposed outdoor growing areas. The Planning Board may require a site
506 plan designed by a licensed surveyor or civil engineer registered in the State of Maine.

507 v. A floor plan of the building showing the existing and proposed layout and square footage.

508 vi. Narrative describing the nature of the registered caregiver operation.

509 B. An application will be approved or approved with conditions if the Planning Board makes a positive
510 finding based on the information presented that the proposed Medical Marijuana Registered Caregiver
511 Home Establishment demonstrates compliance with §16.8.30.2 Standards.

512 **[NOTE: (NOT PART OF THE DRAFT ORDINANCE) PLANNING BOARD RECOMMENDED AN**
513 **ANNUAL PERMITTING PROCESS FOR HOME OCCUPATION WITHIN TITLE 16. THE**
514 **RECOMMENDATION IS DUPLICATIVE OF TITLE 5 RENEWAL PROPOSAL AND WOULD**
515 **ESTABLISH AN UNNECESSARY BURDEN FOR HOME ESTABLISHMENTS. STAFF HAVE**
516 **REMOVED THE DUPLICATION]**

9. REMOVE Marijuana Caregiver as an allowable Home Occupation as follows:

517 § 16.8.22.3 Major home occupation standards.

518 C. Prohibited uses. The following uses are categorically prohibited as major home occupations: motor
519 vehicle repair; motor vehicle sales or rental; commercial parking; commercial outdoor storage; junkyard;
520 auto salvage yard; ~~marijuana retail use~~ Marijuana Business; and ~~marijuana medical use~~ Medical Marijuana
521 Registered Caregiver Home Establishment ~~except the activities of a primary caregiver registered under 22-~~
522 ~~M.R.S. § 2425.~~

ARTICLE XXII
Home Occupation

§ 16.8.22.1. Purpose.

- A. It is the intent of these regulations governing home occupations to balance the economic and community benefits of allowing home-based businesses with the goal of protecting the quality of life of the surrounding residential neighborhood from unreasonable or unsafe intrusions and nuisances inappropriate to a residential setting. The regulations attempt to ensure that any home-based business operates in a manner that respects the neighborhood in which it is situated.
- B. Regulation of home occupations should not prohibit beneficial and unobtrusive uses and should provide standards to protect the health, safety and general welfare of the surrounding neighborhood. A home occupation should not degrade the residential character of the neighborhood.
- C. These regulations take a two-tier approach to regulating home occupations. At the least intrusive level are business activities that by their nature and intensity will be compatible with a residential location. These types of businesses are considered minor home occupations and require only review by the Code Enforcement Officer for compliance with the standards. A major home occupation in a residential district has the potential to be incompatible with its neighborhood setting. Therefore, a public hearing with notification to abutting property owners and BOA approval is necessary.
- D. A more extensive business activity that does not satisfy the standards for a major home occupation is treated as a type of commercial use and does not qualify as an acceptable type of home occupation. Such businesses should be located in an appropriately zoned area of the Town.

§ 16.8.22.2. Minor home occupation standards.

- A. Compliance with the definition of a "home occupation."
 - (1) An applicant must be a resident of a dwelling on the premises where the home occupation will occur. An applicant who is not the owner of the property, but is residing on the premises, must submit written permission of the property owner for the proposed home occupation.

- (2) As an accessory use, the home occupation(s) must be subordinate to the principal use. Quantitative measures that may be considered in determining whether a proposed activity is an accessory use include, but are not limited to, percentage and/or total amount of square footage attributed to the home occupation(s) use in relation to the residential use. Qualitative factors include, but are not limited to, the projected activity level of the home occupation(s) on the premises in relation to the residential use and whether the proposed home occupation is a traditional accessory use in the community.
- B. Number of workers. There must be no more than three persons, inclusive of residents of the premises, working in the home occupation(s) at the site at any one time.
- C. Prohibited uses. The following uses are categorically prohibited as minor home occupations: motor vehicle repair; motor vehicle sales or rental; commercial parking; commercial outdoor storage; machine shop; wholesale use; junkyard; auto salvage yard; seafood cooking; processing and/or cleaning; bait sales; marijuana retail use; and marijuana medical use. **[Amended 5-22-2017 by Ord. No. 17-09]**
- D. Business hours. Business activities involving clients or customers on the premises or vehicular traffic to and from the premises must not be conducted between the hours of 7:00 p.m. and 8:00 a.m., except for a bed-and-breakfast, a day-care facility or a functionally water-dependent use.
- E. Nuisances.
- (1) Any excessive noise, dust, smoke, vibrations, glare, direct lighting, objectionable fumes, traffic or electrical interference detected at the property boundary must not be greater in duration or intensity than that expected in the surrounding residential neighborhood.
- (2) When reviewing a functionally water-dependent use, the above standards allow customary noises and smells caused by the use if all practicable steps are taken to manage and minimize the adverse impact on abutting property owners.
- F. Parking. A plan must be submitted showing sufficient and safe parking for customers', clients' and workers' use during normal business operations. To the maximum extent practicable, parking should be arranged so as to avoid vehicles backing out into the

street. In addition to parking required for the residence, the following parking is required: **[Amended 9-26-2011 by Ord. No. 11-15]**

- (1) One parking space per nonresident worker at the site during the peak shift;
 - (2) One parking space if clients or customers frequently visit the site;
 - (3) One parking space per adult student up to the maximum class size; or
 - (4) One parking space per rental unit.
- G. The parking design standards in Table 2 of this chapter, set out at the end of Article IX, Parking Loading and Traffic (e.g., aisle width, stall size, etc.), may be modified for parking by workers if the parking arrangement will still provide for practical off-street parking adequate to prevent parking from overflowing the site.
- H. With the exception of a bed-and-breakfast with more than three rooms for rent, three additional off-street parking spaces should satisfy the parking demand for a minor home occupation. Any recurring observed parking overflow is a violation of these standards.
- I. The CEO may approve the joint use of a parking area where it is clearly demonstrated that the parking area will be available for use by customers or workers during the hours of operation due to the variation in time of use.
- J. Outdoor storage. All outdoor storage of equipment, vehicles, items or equipment associated with the home occupation is prohibited except for the following:
- (1) One vehicle used in conjunction with the home occupation;
 - (2) Seasonal storage of items necessary for functionally water-dependent uses, such as lobster traps; and
 - (3) Vehicles owned by residents of the premises with valid license plates.
 - (4) All bait must be stored indoors and must be kept refrigerated or otherwise stored to prevent offensive odors.
- K. Business conduct. All business activities on the site must take place within the dwelling or enclosed buildings, except for

§2429-D. Local regulation

Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered caregivers, caregiver retail stores operating pursuant to section 2423-A, subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and manufacturing facilities. [PL 2019, c. 217, §5 (AMD).]

A municipality may not: [PL 2017, c. 452, §18 (NEW).]

1. Registered caregivers. Prohibit or limit the number of registered caregivers; [PL 2017, c. 452, §18 (NEW).]

2. Stores, dispensaries, testing and manufacturing facilities. Prohibit caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this section. For purposes of this subsection, "municipal approval" means an examination and approval of the store, dispensary or facility for the use of the premises consistent with conduct authorized under this chapter, including, but not limited to, a conditional use approval or site plan approval. "Municipal approval" does not include issuance of a building, electrical or other similar permit or authorization that does not address the use of the structure or facility for which the permit or authorization is issued; or [PL 2019, c. 217, §5 (AMD).]

3. Municipal authorization needed. Authorize caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of this section to operate in the municipality unless the municipal legislative body, as defined in Title 30-A, section 2001, subsection 9, has voted to adopt or amend an ordinance or approve a warrant article allowing caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, as applicable, to operate within the municipality. [PL 2019, c. 217, §5 (AMD).]

SECTION HISTORY

PL 2017, c. 452, §18 (NEW). PL 2019, c. 217, §5 (AMD).

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

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School Buffer Review

Legend

- | | |
|--|--|
|  Commercial - 1 |  Public_Schools |
|  Commercial - 2 |  500-ft Buffer |
|  Commercial - 3 |  1000-ft Buffer |
|  Mixed Use |  Parcels |





Town of Kittery Marijuana Zoning Ordinance Amendments
Hypothetical Marijuana Business Buffer Zone Analysis

Legend

● Marijuana Business	■ Commercial - 1
■ 1000-ft. Buffer	■ Commercial - 2
■ 1500-ft. Buffer	■ Commercial - 3
■ 2000-ft. Buffer	■ Mixed Use
Zoning District	■ Parcel_2020_No_Water&Road_2

