

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

1. ADD Title 5.11 Marijuana Businesses as follows:

1 **CHAPTER 5.11 Marijuana Businesses**

2 **5.11.1. Purpose and Authority**

3 This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2429-A(14)
4 and 28-B M.R.S. § 402. The purpose of this Ordinance is to set forth procedures and standards for the
5 issuance of local licenses for Marijuana Businesses in order to protect public health, safety and welfare.

6 **5.11.2. Definitions**

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

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

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

15 Licensee means a person licensed pursuant to this Ordinance.

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

18 Marijuana Business includes an Adult Use Marijuana Store, Medical Marijuana Caregiver Retail Store,
19 Medical Marijuana Caregiver Retail Store, Medical Marijuana Caregiver (home occupation), Marijuana
20 Cultivation Facility, Marijuana Manufacturing Facility and Marijuana Testing Facility, all as defined in the
21 Town of Kittery Land Use Ordinance.

22 Marijuana Retail Store includes a Medical Marijuana Caregiver Retail Store or an Adult Use Marijuana
23 Store.

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

27 Person means a natural person, partnership, association, company, corporation, limited liability company or
28 organization, or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not
29 include any governmental organization.

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

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

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

34 Town Manager means the Town Manager of the Town of Kittery or their designee.

35 **5.11.3. License Requirement**

36 A Marijuana Business shall not begin or continue operations operate unless it has and is in possession
37 of a license issued pursuant to this Ordinance. Marijuana Businesses that hold an approved land use
38 permit and/or are operating as of the effective date shall submit a completed application within 30 days
39 of the effective date, and shall have a grace period of 60 days after the effective date to receive a
40 license, which may be extended by order of the Council if justified due to the anticipated timeline of
41 the review process.

42 **5.11.4. Licensing Authority**

43 All Medical Marijuana Caregiver (home occupation) license applications, whether new or renewal, shall be
44 reviewed and may be approved by the Town Manager. All other initial license applications shall be
45 reviewed and may be approved by the Town Council after public hearing. The Town Manager shall be the
46 Licensing Authority for renewal licenses, as specified in Section 5.11.5.E.

47 **5.11.5. Licensing Procedures**

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

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

56 B. Initial Review. The Town Manager shall be responsible for the initial investigation of the application
57 to ensure compliance with the requirements of this Ordinance and to obtain recommendations from
58 other Town officials as required.

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

63 D. Staff Review. No license shall be granted by the Licensing Authority until the Town Manager, Police
64 Chief, Fire Chief and Code Enforcement Officer have all made positive recommendations regarding the
65 Applicant’s ability to comply with this Ordinance or any other applicable Town ordinance or state or
66 federal law enforced by such officials.

67 E. Renewal. For renewal licenses, the application, fee and review process shall be the same as for
68 initial licenses except that the Town Manager shall be the Licensing Authority. If any reviewing
69 staff member finds that new conditions should be attached to the renewal license or that the
70 renewal license should be denied, the renewal application shall be forwarded to the Town
71 Council for final action. Renewal licenses for Marijuana Retail Stores shall be granted by the Town

72 Manager only upon a finding that the Store has in the past license term been operating in accordance
73 with this Ordinance as well as with the Store’s previously submitted Operations Plan.

74 F. Type of License. Licenses shall be approved only for the type(s) of Marijuana Business(es) identified
75 in the application. A Licensee who intends to expand or convert the Licensed Premises to a type of
76 Marijuana Business that is not specifically approved in a license must obtain a new license for that use.

77 G. State Approvals. Any Licensee that is required to obtain approval from the State of Maine shall
78 provide the Town copies of all necessary approvals prior to operating the licensed business.

79 H. Inspection. Any Licensee other than a Medical Marijuana Caregiver (home occupation) shall, prior to
80 operating the licensed business, contact the Town to request an inspection to determine the Marijuana
81 Business’ compliance, as built, with the requirements of this Ordinance, any conditions of licensure,
82 and the submitted Operations Plan (if applicable). Any municipal official with authority to make
83 recommendations, grant licenses or enforce this or other municipal ordinances regarding Marijuana
84 Businesses shall have authority to enter the premises of an Applicant or Licensee without notice during
85 operating hours to make any inspection reasonably necessary to ensure continued compliance with all
86 applicable Town ordinances.

87 I. License term. Each license issued under this Ordinance shall be valid for the term of license granted by
88 the State License Authority (“the license year”), or otherwise for one (1) year from the date of issuance.
89 Applications for renewal licenses should be submitted no less than 60 days prior to expiration of the
90 existing term to allow for timely processing. Any Marijuana Business Licensee which fails to apply for
91 a renewal license prior to expiration of the existing term shall not have authority to operate until a
92 renewal license is granted. A late fee of 10% of the total license fee shall be assessed to applications
93 submitted 1 to 30 days past expiration of the existing license, and 20% shall be assessed for
94 applications submitted thereafter. Any Marijuana Retail Store which fails to obtain a renewal license
95 within 30 days following expiration of the existing term shall forfeit its license, unless the applicant
96 timely submitted the application and the delay is due to circumstances not within the applicant’s
97 control.

98 J. Forfeiture. A Marijuana Business License shall be forfeited if the Licensee:

99 1. Fails to obtain a renewal license within thirty (30) days of expiration of an existing license;

100 2. Makes any other active use of the Licensed Premises other than for the licensed Marijuana
101 Business; or

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

107 **5.11.6. Application Submission Requirements**

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

- 112 A. Proof of the Applicant’s right, title, or interest in the Premises, such as a deed, lease, sublease, (must
113 include lease and authorization for sublease, if applicable) or purchase and sale agreement.
- 114 B. A copy of the Applicant’s State License application and supporting documentation, as submitted to the
115 State Licensing Authority, if a State License is required.
- 116
- 117 C. Evidence of all State approvals or conditional approvals required to operate the Marijuana Business,
118 including, but not limited to, a State License as defined by this Ordinance, caregiver registration, a State
119 retail certificate, or a State health license.
- 120 D. If not included in the Applicant’s State License application, attested copies of any articles of
121 incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern
122 the entity that will own and/or operate the Marijuana Business.
- 123
- 124 E. If not included in the Applicant’s State License application, an affidavit on a form to be provided by the
125 Town that identifies all owners, officers, members, managers or partners of the Applicant, their
126 ownership interests, and their places of residence at the time of the application and for the immediately
127 preceding three (3) years.
- 128 F. A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant
129 seeking a license allowing the Town of Kittery or its officials to obtain criminal records and other
130 background information related to the individual.
- 131 G. Evidence of all land use approvals or conditional land use approvals required to operate the Marijuana
132 Business, including, but not limited to building permit, special exception approval, site plan review
133 approval, and/or a change of use permit. Where site plan approval is required, evidence of submission of
134 a complete site plan review application is sufficient, but any license issued shall be conditioned upon site
135 plan approval and issuance of any necessary building or occupancy permits.
- 136 H. Evidence of all other local approvals or conditional approvals required to operate the Marijuana
137 Business, including any applicable food or victualer’s license. If the Marijuana Business is not in
138 application as of the date of license application, the applicant shall list any other licenses required and
139 issuance of such licenses will be made a condition of the Marijuana Business License.
- 140 I. A description of the premises for which the license is sought, including a plan of the premises.
- 141 J. A copy of any state or municipal license held for any other Marijuana Business owned or operated by the
142 Applicant or by any officer, owner, subsidiary, member, manager or partner of the Applicant, as well as
143 any notices of violation received from the state or municipality for such Marijuana Business and proof
144 that any violation has been resolved.
- 145 K. Certification from the Fire Chief that the location of the Marijuana Business on the subject Premises will
146 not pose an undue risk of fire or other safety hazard.
- 147 L. For Marijuana Retail Stores, an Operations Plan, describing the Applicant’s:
148 1. Security plan;
149 2. Provisions to ensure against loitering and using marijuana and marijuana products on or near the
150 Premises;
151 3. Protocols for hiring and training employees;
152 4. Experience and training in Maine’s seed-to-sale tracking system;
153 5. Protocols for odor control and disposal of waste marijuana or marijuana products; and

- 154 6. Protocols for ensuring the safety and security of product.
- 155 7. Fire Suppression annual certification

156 If the Town determines that a submitted application is not complete, the Town shall notify the applicant of
157 the additional information required to process the application. If such additional information is not
158 submitted within thirty (30) days of the Town’s request, the application may be denied,

159 **5.11.7 Transfer of Ownership**

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

164 **5.11.8 Transfer of Location**

165 Marijuana Business licenses are limited to the Premises for which they are issued and shall not be
166 transferable to a difference location. A Licensee who seeks to operate in a new location shall acquire a new
167 license for that location.

168 **5.11.9 Existing Medical Marijuana Caregiver (Home Occupation)**

169 Any Medical Marijuana Caregiver (home occupation) that holds an approved land use permit and is
170 operating as of the effective date shall submit an application within thirty (30) days of the effective date of
171 this Ordinance.

172 **5.11.10 Limit on and Special Procedures for Retail Stores**

173 A. Limit on retail licenses. The total number of licenses issued for Marijuana Retail Stores shall not exceed
174 five, excluding any licenses issued to existing Medical Marijuana Caregiver (home occupation)
175 pursuant to Section 5.11.9.

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

- 179 1. Pre-application forms shall be made available starting on the effective date of this Ordinance.
180 Applicants seeking licensure as a Marijuana Retail Store shall complete the form and return it to
181 the Town along with the following supporting documentation:
 - 182 a. Completed, signed and notarized ownership affidavit
 - 183 b. Pre-application fee
 - 184 c. Evidence of right, title and interest in the Premises (deed, purchase and sale agreement, lease
185 and/or sublease)
 - 186 d. Evidence demonstrating the applicant’s financial capacity to build out (if applicable) and operate
187 the Marijuana Business (e.g., bank letter, letter of credit, loan commitment)
 - 188 e. Evidence demonstrating that the applicant has applied for conditional licensure from the State of
189 Maine
- 190 2. Upon receipt of a pre-application, the Town shall note the date and time of the receipt and,
191 without unreasonable delay, process the application to determine whether all required fields have
192 been filled and all required supporting documentation has been provided. If the Town
193 determines that a submitted pre-application is not complete, they shall notify the applicant of the

194 additional information required to process the pre-application. If such additional information is
195 not submitted within thirty (30) days of the Town’s request, the pre-application will be rejected.

- 196 3. The Town Manager shall evaluate complete pre-applications and certify the eligibility of
197 applicants if they meet the following standards:
198 a. The applicant has demonstrated right, title and interest in the Premises;
199 b. The applicant has demonstrated adequate financial capacity to build out (if applicable) and
200 operate the retail store.
201 c. The Premises is located in a zone in which Marijuana Retail Stores are permitted.
202 d. The applicant has applied for or received conditional license approval from the State of Maine
203 for the subject Marijuana Business.
- 204 4. The Town Manager shall issue a written decision to the applicant indicating whether it has met the
205 standards for pre-application certification. Applications for licensure may be submitted as soon as
206 the certification decision is issued.

207 C. Priority. Licenses for Marijuana Retail Stores shall be assigned priority based upon the date and time a
208 completed pre-application was received by the Town. The first five (5) certified applicants will be
209 invited to provide completed license applications within thirty (30) days of certification, which will be
210 processed in accordance with Section 5.11.6

211 D. Waiting list procedures. If a license for a Marijuana Retail Store becomes available, the Town shall
212 invite the pre-certified applicant with the next priority to apply for licensure. If such applicant does
213 not submit an application within thirty (30) days from invitation, the Town shall proceed to the next
214 applicant. Applications shall not be processed from the waiting list if there have been any material
215 changes to ownership, as indicated on the ownership affidavit, or where there is a change to location
216 of the Premises.

217
218 E. Change in ownership of Retail Marijuana Store. In the event of a proposed change in ownership of a
219 Marijuana Retail Store (including a material change of members of an LLC or partnership), the new
220 owner(s) shall apply for a new license within thirty (30) days following the date of the transfer by
221 submitting a full, completed / updated application package to the Town. The application shall be
222 subject to the same application process as new licenses and shall, after initial staff review, be
223 presented to the Town Council for consideration if the proposal involves a change in majority
224 ownership or control of the Marijuana Retail Store. If the new owner does not apply for a new
225 license within said thirty (30) day period, the license will be considered forfeited. The license may
226 not be transferred if any active use other than for the licensed Marijuana Retail Store has been made
227 of the Licensed Premises prior to or within the thirty (30) days following the transfer of ownership.

228 **5.11.11 Denial, Revocation or Suspension of a License**

229 A license application for a Marijuana Business shall be denied by the Licensing Authority, suspended by
230 the Town Manager, or after notice and hearing revoked by the Town Council, if the Applicant, or any
231 Owner of the Applicant or Licensee:

232 A. Fails to meet the requirements of this Ordinance.

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

234 C. Has had a license required for the Marijuana Business suspended or revoked by the Town, by a
235 municipality in the State of Maine, or by the State.

236 D. Is in violation of this or any ordinance or has unpaid penalties assessed by a court, related to the
237 Marijuana Business.

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

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

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

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

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

245 **5.11.12 Approval and Operating Requirements**

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

249 A. Display of License. The current License shall be displayed at all times in a conspicuous location
250 within the Premises.

251 B. Premises. All Licensed Premises shall be fixed, permanent locations. Licensees shall not be
252 permitted to operate Marijuana Establishments in other than the Licensed Premises, such as at
253 farmer’s markets, farm stands or kiosks.

254 C. Loitering. The facility owner/operator shall make adequate provisions to prevent patrons or other
255 persons from loitering on the Premises. It shall be the Licensee’s obligation to ensure that anyone
256 found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas
257 of a Licensed Premises is ordered to leave.

258 D. Other laws. A Marijuana Business shall meet all operating and other requirements of state and local
259 law. To the extent the State of Maine has adopted or adopts in the future any law or regulation
260 governing Marijuana Businesses that conflicts in any way with the provisions of this Ordinance, the
261 more restrictive provision shall control.

262 E. Changes to operations. Marijuana Businesses shall operate in accordance with all material
263 representations made in the approved license application and Operations Plan (if applicable). If the
264 Licensee is required to notify the State of a change related to the Marijuana Business, the Licensee shall
265 promptly provide the Town with a copy of such notification. If the Town determines that the change is
266 not in accordance with the requirements of this Ordinance, or requires additional conditions of
267 approval, the change shall be forwarded to the Town Council for consideration.

268 **5.11.13 Appeals**

269 A. The following appeals may be decided by the Town Council upon a *de novo* hearing in
270 which it will hear evidence on the application and make its own findings of fact and conclusions of
271 law:

- 272 1. Appeal of the Town Manager’s denial of an application.
- 273
- 274 2. Appeal by any aggrieved party having legal standing of any decision by the Town Manager to grant a
- 275 license under this Ordinance.
- 276
- 277 3. Appeal by a Licensee challenging conditions attached to a License, to which the Licensee objects.

278 Appeals must be filed with the Town Clerk within thirty (30) days of the date of the decision subject to

279 appeal. The Town Council shall hold the hearing on the appeal and render a decision within thirty (30)

280 days of the date of the appeal, unless all parties consent to a delay.

281 B. Appeals from any decision of the Town Council under this Ordinance shall be made to York County

282 Superior Court within thirty (30) days of the date of the decision being appealed.

283 **5.11.14 Enforcement and Penalties**

284 The operation of any Marijuana Business without the required license or in violation of the requirements of

285 this Ordinance shall be a violation of this Ordinance. The Town Manager shall enforce the provisions of

286 this Ordinance. A violation of any provision of this Ordinance shall be a civil violation, and a civil

287 penalty of \$250 to \$2,500 shall apply and may be assessed for each day that the violation continues. The

288 penalty for operating a Marijuana Business without a valid license shall be \$2,500 per day for Marijuana

289 Retail Stores and \$500 per day for other Marijuana Businesses. The Town Manager may suspend the

290 license, and the Town Council may revoke the license after notice and hearing.

291 **5.11.15 Severability**

292 The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void,

293 the remaining provisions shall not be affected and shall remain in full force and effect.

294 **5.11.16 Other Laws**

295 Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and

296 procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S. Chapter 1, as may be

297 amended and the Maine Medical Use of Marijuana Act, 22 M.R.S. Chapter 558-C, as may be amended.

298 In the event of a conflict between the provisions of this Ordinance and the provisions of said Acts or any

299 other applicable state or local law or regulation, the more restrictive provision shall control.

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

<u>Marijuana Retail Stores – Preapplication fee</u>	<u>\$750</u>
<u>Medical 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>Medical Marijuana Manufacturing Facility</u>	<u>\$ 3,000</u>
<u>Medical Marijuana Retail Store</u>	<u>\$ 6,000</u>

<u>Medical Marijuana Testing Facility</u>	<u>\$ 3,000</u>
<u>Medical Marijuana Caregiver</u>	<u>\$1,000</u>
<u>Medical Marijuana Caregiver (home occupation)</u>	<u>\$ 500</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:

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

305 ~~MARIJUANA RETAIL USE—The cultivation, manufacture, distribution or selling of cannabis by a retail~~
 306 ~~marijuana establishment or retail marijuana social club, as referenced in 7 M.R.S.~~

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

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

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

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

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

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

323
 324 ADULT USE MARIJUANA STORE - A facility licensed under 28-B MRS Chapter 1 to purchase adult
 325 use marijuana, immature marijuana plants and seedlings from a cultivation facility, and to sell adult use
 326 marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

327 MARIJUANA BUSINESS - An Adult Use Marijuana Store, Marijuana Cultivation Facility, Medical

328 Marijuana Caregiver Retail Store, Marijuana Manufacturing Facility, Marijuana Testing Facility, Medical
329 Marijuana Registered Caregiver or Medical Marijuana Registered Caregiver (Home Occupation)

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

- 334 Tier 1: Up to 500 square feet of plant canopy
- 335 Tier 2: Up to 2,000 square feet of plant canopy
- 336 Tier 3: Up to 7,000 square feet of plant canopy
- 337 Tier 4: Up to 20,000 square feet of plant canopy

338 **MEDICAL MARIJUANA CAREGIVER RETAIL STORE** - A store that has attributes generally
339 associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours,
340 accessibility to the public and sales of goods or services directly to a consumer, and that is used by a
341 registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

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

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

351 **MEDICAL MARIJUANA REGISTERED CAREGIVER** - A person or an assistant of that person that
352 provides care for a qualifying patient in accordance with state law and licensing and is registered with the
353 state in accordance with state law.

354 **MEDICAL MARIJUANA REGISTERED CAREGIVER (HOME OCCUPATION)**- Medical Marijuana
355 Registered Caregiver (Home Occupation). A person or an assistant of that person that provides care for a
356 qualifying patient in accordance with state law and licensing and is registered with the state in accordance
357 with state law and in accordance with the Home Occupation permitting and operational standards of this
358 ordinance.

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

359 § 16.3.2.11 **Commercial (C-1, C-2, C-3).**

360 (1) C-1 special exception uses.

361 (p) Marijuana Business

362 (2) C-2 special exception uses.

363 (q) Marijuana Business

364 (3) C-3 special exception uses.

365 (q) Marijuana Business

366 § 16.3.2.13 **Mixed-Use MU.**

367 C. Special exception uses.

368 19. Marijuana Business

5. ADD Marijuana Businesses to Title 16 Design and Performance Standards for Built Environment

369 §16.8.29 Marijuana Businesses

370 This section regulates Marijuana Businesses, as defined uses within the Town of Kittery. The permitting
371 standards outlined here shall be adhered to for all Marijuana Businesses, in addition to other applicable
372 standards in this and other ordinances or state law.

373 A. Any Marijuana Business in operation as of the Effective Date of this Section and permitted by the Board
374 of Appeals as a Home Occupation pursuant to Article XXII, but otherwise meeting the definition of a
375 Medical Marijuana Caregiver Retail Store, may continue to operate as long as a license is received and
376 maintained in accordance with this Ordinance. Such operations may not be built, used or occupied in any
377 way that constitutes a material difference from any representations in the approved application and
378 Findings of Fact, and/or approval conditions for Home Occupation.

379 B. Marijuana Businesses shall not locate within 1,000 feet of a public or private school measured from the
380 main entrance or any customer entrance door of the Marijuana Business in a straight line to the property
381 line of the protected use. Marijuana Businesses shall not locate within 250 feet of a state-licensed
382 daycare of any size, measured from the exterior wall of the Marijuana Business to the property line of the
383 protected use. This section shall not prohibit the activity of a caregiver or other authorized individual
384 from administering medical marijuana to a qualified patient who is located within one of these protected
385 areas.

386 C. Marijuana Businesses shall not have any odor of marijuana detectible beyond the area controlled by
387 the business, whether that be a leased or owned area that is a portion or all of a recorded parcel of land.
388 Odors shall be controlled by whatever best practices exist.

389 D. Marijuana grown by any Marijuana Business shall be grown indoors only. A Medical Marijuana
390 Caregiver shall not conduct any sale of the product on premises unless the business is also permitted as a
391 Medical Marijuana Caregiver Retail Store. Medical Marijuana grown by Medical Marijuana Caregivers shall
392 be limited to less than one thousand (1,000) square feet floor area measured cumulatively per lot unless the
393 business is also permitted as a Marijuana Cultivation Facility. A Medical Marijuana Caregiver (Home
394 Occupation) in operation as of the effective date of this section shall be permitted to maintain the grow area
395 in existence as of the effective date of this section.

396 E. Medical Marijuana Registered Caregiver and Medical Marijuana Registered Caregiver (Home
397 Occupation), when required by state law to be licensed to manufacture, may only manufacture medical
398 marijuana products in zoning districts where Marijuana Manufacturing Facilities are permitted.

399 F. Medical Marijuana Registered Caregiver (Home Occupation) shall at all times meet all permit and
400 operational requirements for a home occupation and the additional license requirements for a Medical
401 Marijuana Registered Caregiver (Home Occupation). Medical Marijuana grown by Medical Marijuana
402 Caregiver (Home Occupation) in basements and accessory structures shall be limited to less than one
403 thousand (1,000) square feet floor area measured cumulatively per lot for all caregivers cultivating on the lot.

404 G. The design of any building containing a Marijuana Business shall be visually compatible with other
405 types of buildings in the immediately surrounding neighborhood, in terms of similarity of building materials,
406 building size, building height and architecture.

407 H. The area of any Marijuana Business accessible to customers shall be no less than 400 nor more than
408 1,000 square feet.

409 I. Parking shall conform to Article X.

410 J. Any building containing a Marijuana Business shall be protected by fire suppression measures and
411 fire alarms to the satisfaction of the Fire Chief and in accordance with all applicable building codes.

412 K. The Owner of any Marijuana Business shall provide an annual affidavit from a master electrician
413 certifying that the electrical components can meet the electrical load demands of the use.

414 L. Security.

415 1. The Licensed Premises shall have lockable doors and windows and shall be served by an alarm system
416 which includes automatic notification to the Kittery Police Department.

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

421 3. The Licensed Premises shall have exterior lighting with motion sensors covering the full perimeter of the
422 building(s).

423 4. Medical Marijuana Registered Caregiver (home occupation) uses shall not be required to meet paragraphs
424 2 and 3.

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