

**Town of Livermore Falls, Maine**  
**Ordinance to Allow and Regulate Medical**  
**Marijuana Retail Stores, Medical Marijuana**  
**Cultivation Facilities and Medical Marijuana**  
**Product Manufacturing Facilities**

Adopted date : 11.2.21

Certified by: *A. Brown*

Town Clerk

Affix Town Seal:



TRUE COPY ATTEST  
BY *A. Brown*  
CLERK  
TOWN OF LIVERMORE FALLS

**Town of Livermore Falls**

**Medical Marijuana Establishment Licensing Ordinance**

**Section 1: Title**

This ordinance shall be known and cited as the “Town of Livermore Falls **Medical Marijuana Establishment Licensing Ordinance** and will be referred to herein as “ the Ordinance”.

**Section 2: Purpose: Authority.**

The purpose of this Ordinance is to provide procedures and standards relating to the operation of medical marijuana caregiver retail stores, medical marijuana cultivation facilities and medical marijuana manufacturing facilities and all as further defined in this Ordinance to require annual licensing for the same.

This Ordinance is also enacted consistent with the Town’s statutory authority pursuant to 22 M.R.S. § 2429-D, as may be amended or recodified.

**Section 3: Definitions.**

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings:

**Caregiver retail store:** “ Registered caregiver retail store means “caregiver retail store” as that term is defined in 22 M.R.S. § 2422(1-F), as may be amended or recodified.

**State registration authority:** means the authority created or designated by the State of Maine for the purpose of regulating and controlling registration for medical marijuana establishments.

**Registered Caregiver:** “Registered caregiver” means a caregiver who is registered by the Department of Administrative and Financial Services pursuant to section 2425-A.

**Cardholder:** “cardholder” as that term is defined in 22 M.R.S. § 2422(1), as may be amended or recodified.

**Cultivation area:** means “cultivation area,” as that term is defined in 22 M.R.S. § 2422(3), as may be amended or recodified.

**Disqualifying Drug Offense Disqualifying Drug Offense:** means “disqualifying drug offense,” as that term is defined in 22 M.R.S. § 2422(4), as may be amended or recodified.

**Manufacture or manufacturing:** means “manufacture” or “manufacturing,” as those terms are defined in 22 M.R.S. § 2422(4-Q), as may be amended or recodified.

**Manufacturing facility:** means “manufacture” or “manufacturing,” as those terms are defined in 22 M.R.S. § 2422(4-Q), as may be amended or recodified.

**Medical marijuana:** means marijuana possessed or used by a cardholder for medical use, in accordance with 22 M.R.S. § 2423-A, as may be amended or recodified. For the avoidance of doubt, “medical marijuana” does not refer to marijuana possessed or used by an individual of at least 21 years of age for recreational purposes, as more particularly defined and permitted by Title 28-B of the Maine Revised Statutes, as may be amended or recodified.

**Medical marijuana cultivation facility:** means a permanent physical location where a registered caregiver or multiple registered caregivers cultivate medical marijuana in a manner consistent with 22 M.R.S. § 2423-A(2), as may be amended or recodified; provided, however, that the physical location is not the primary residence of any registered caregiver utilizing said facility, which need not be licensed.

**Medical marijuana dispensary:** means a “dispensary,” as that term is defined in 22 M.R.S. § 2422(6), as may be amended or recodified.

**Medical marijuana establishment:** means a “medical marijuana caregiver retail store,” a “medical marijuana cultivation facility,” or a “medical marijuana manufacturing facility,” all as are more particularly defined in this Ordinance.

**Medical use.** “Medical use” means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient’s medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.

**Medical provider.** “Medical provider” means a physician, a certified nurse practitioner or a physician assistant.

**Medical use:** means “medical use,” as that term is defined in 22 M.R.S. § 2422(5), as may be amended or recodified.

For convenience definitions referred to above from Title 22 M.R.S.A §2422 as of the date of adoption of this Ordinance are attached in the appendix for convenient reference.

#### **Section 4:Applicability:Interpretation:**

A. Beginning on the effective date of this Ordinance, no registered caregiver or other individual or entity may establish or otherwise begin to operate a medical marijuana establishment that was not legally operating prior to the adoption of this Ordinance, without first receiving site plan approval from the Town of Livermore Falls Planning Board,

in a manner consistent with all applicable provisions of this Ordinance as well as with all applicable provisions of the Town of Livermore Falls Site Plan Review Ordinance.

B. If a medical marijuana cultivation facility (but not a medical marijuana caregiver retail store or a medical marijuana manufacturing facility) was legally in existence prior to the effective date of this Ordinance, the same may not be expanded, changed, or otherwise augmented in any way, without first receiving site plan approval from the Town of Livermore Falls Planning Board.

C. Beginning on the effective date of this Ordinance, no medical marijuana establishment may operate within the Town of Livermore Falls without first receiving a license from the Town of Livermore Falls Select Board in a manner consistent with the procedures and requirements of this Ordinance, except as provided in Section 11(B), below.

D. For the avoidance of doubt, medical marijuana registered dispensaries are expressly prohibited within the Town of Livermore Falls.

This Ordinance may not be construed to limit any privileges or rights of a qualifying patient or registered caregiver as established in 22 M.R.S. § 2421, *et seq.*

#### **Section 5 Effective Date:**

This Ordinance shall be effective upon adoption by Town Meeting

#### **Section 6 Validity and Severability:**

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

#### **Section 7A: License Application:**

An applicant for a medical marijuana establishment license shall complete and file an application with the Code Enforcement Officer (CEO) or other such person designated by the Livermore Falls Town Manager, on a form designed and provided by the Town, together with the applicable **non-refundable** license fee, as established by the Town. The application must contain the following information and/or supporting materials:

- A. A copy of the applicant's caregiver or other registration application to the Maine Office of Marijuana Policy, including all supporting documentation.
- B. Evidence of all State of Maine approvals required to operate a medical marijuana retail store, medical marijuana cultivation facility, or medical marijuana manufacturing facility, as applicable, including, but not limited to a valid State of Maine registered caregiver registration card.
- C. If not included in the applicant's State of Maine caregiver or other registration application, a description of the form of ownership of the business enterprise

together with the attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the medical marijuana establishment.

- D. If not included in the applicant's caregiver or other registration application, an affidavit that identifies all owners, officers, members, managers or partners of the applicant.
- E. A release for each applicant and for each officer, owner, member, manager, or partner of the applicant seeking license allowing the Town of Livermore Falls to obtain criminal records and other background check information related to the individual.
- F. A statement as to the precise nature of the business with a description of the nature of all products and services offered to its qualifying patients, as well as the particular category of medical marijuana establishment that the applicant intends to operate.
- G. Evidence of all other approvals required to operate the medical marijuana establishment, including any Site Plan approval and any applicable food or victualer's license needed for a medical marijuana manufacturing facility to produce food products containing marijuana, as required by 22 M.R.S. § 2167, as may be amended.
- H. Evidence of compliance with the requirements of Sections 10 and 11 of this Ordinance has been met.
- J. Medical Marijuana Manufacturing facilities shall be open no earlier than 9:00 A.M. and will close no later than 9:00 P.M.
- K. License Fee and Costs. The Town of Livermore Falls Select Board shall have the authority to revise the annual license fee and the initial non-refundable license fee. Initial Application fee: **\$250.00**. Medical Marijuana store applicant shall pay an Annual renewal fee of **\$500.00**
- L. *APPEALS*: License applicants /holders have the right to apply to the Livermore Falls Board of Appeals. Appeals may be taken to the Maine Supreme Court in accordance with Rule 80-B, Maine Rules of Civil Procedure.

### **Section 8: Investigation Of Applicant, Officers, Etc;**

Upon receipt of an application for a medical marijuana establishment license or of a notice of a change of any individual listed in Section 7(A)(iv) of this Ordinance, the Town Clerk of Livermore Falls shall provide copies of the completed application to the Select Board and to the CEO, or other such person designated by the Town Manager, for the purposes of reviewing the application and carrying out any necessary site inspection of the premises at which the establishment will be located. The CEO shall then complete the following steps:

- A. The CEO shall determine if an applicant's proposal could comply with all applicable town ordinances;

- B. The CEO may coordinate with any other Town of Livermore Falls employee, agent or independent contractor to carry out any such inspection the CEO deems necessary to determine if the applicant's proposal could be in compliance with Town of Livermore Falls Ordinances.
- C. The CEO shall have 21 days from the date a completed application is received to complete a review of the applicant's premises and submit an affirmative, negative, or conditional report to the Town of Livermore Falls Select Board.

**Section 9: Action On Application:**

- A. **Public Hearing Required:** Within thirty (30) days of receipt of an application, the Town of Livermore Falls Select Board shall conduct a duly-noticed public hearing to provide an opportunity for public comment on the submitted medical marijuana establishment application. Notification of the scheduling of this public hearing shall be posted in three (3) conspicuous locations within the town at least seven (7) days prior. At the public hearing, testimony of the applicant and of any interested person shall be heard.
- B. **Written Decision.** Within fifteen (15) days of said public hearing, the Town of Livermore Falls Select Board shall grant the license requested unless the issuance of the license would violate any provision of this Ordinance or other ordinance enacted by the Town of Livermore Falls, or any State of Maine law, or any Planning Board approval or condition of approval. All decisions of the Select Board shall be produced in writing, explaining the reasons for the Select Board's decision. A copy of this decision shall be provided to the applicant.
- C. **Conditions of Approval.** In granting a license, the Town of Livermore Falls Select Board may impose any conditions of approval it deems necessary to fulfill the provisions of this Ordinance, state law, or any other ordinance of the Town of Livermore Falls.

**Section 10: Performance Standards:**

No medical marijuana establishment license may be granted, and no medical marijuana establishment may operate, even after issuance of a license, except in compliance with the following performance standards. Such performance standards shall automatically be incorporated into all medical marijuana establishment licenses granted by the Select Board as conditions of approval.

- A. **Buffer Zones** No medical marijuana establishment shall be located at a distance of less than 500 feet from the property line of a pre-existing public or private Pre-K -12 schools, or a day care center licensed by the State of Maine.

**B. Security**

- i. The licensed medical marijuana establishment premises shall have lockable doors and windows and shall be served by an alarm system.
- ii. All medical marijuana establishments shall have video surveillance capable of covering the exterior and interior of the facility. The video surveillance system shall be operated with continuous video recording twenty-four (24) hours per day, seven (7) days a week and video shall be retained for a minimum of thirty (30) days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.
- iii. The medical marijuana establishment shall have exterior spot lights with motion sensors covering the full perimeter of the building(s) subject to the other ordinances and the Town of Livermore Falls Select Board discretion.

**C Ventilation**

- i. All medical marijuana establishments shall have an odor mitigation system installed that has been approved by a Maine licensed engineer, indicating that the system will provide odor control sufficient to ensure no odors are perceptible from any adjoining property line of the licensed premises.
- ii. The licensed premises shall comply with all odor and air pollution standards established by statute or ordinance, or as condition of approval by the Planning Board.
- iii. No medical marijuana establishment may generate odors that are perceptible from any adjoining property line of the licensed premises.

**D. *Loitering; no use of marijuana on licensed premises.*** The licensee shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It shall be the licensee's obligation to ensure that anyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a licensed premise is ordered to leave.

**E. *Compliance with requirements of Maine State and local law(s).*** A medical marijuana establishment shall meet all operating and other requirements of all applicable state laws and regulations and town ordinances. To the extent the State of Maine has adopted or adopts in the future any law or regulation governing registered caregivers or medical marijuana establishments that conflicts in any way with the provisions of this Ordinance, the more restrictive law or regulation shall be the control.

## SECTION 11: MISCELLANEOUS

- A. **License Term.** All licenses issued under this Ordinance shall be valid for a period of one year from the date of issuance. Renewals of existing licenses are governed by Section 13 of this Ordinance.
- B. **Grace Period for Existing Medical Marijuana Establishments.** Notwithstanding anything to the contrary within this Ordinance, a legally preexisting medical marijuana establishment, shall have twelve (12) months from the effective date of this Ordinance to obtain a license pursuant to this Ordinance. However, failure to obtain a license prior to the expiration of this twelve (12) month period shall subject the medical marijuana establishment owner or operator to all penalties contained in this Ordinance.
- C. **Licenses Nonassignable/Nontransferable.** No license issued under this Ordinance may be assigned or transferred to another entity. Any change in ownership or change in officers of the licensee requires a new license. The new owners of any medical marijuana establishment, as defined in this Ordinance, shall apply to the Select Board for a new license prior to beginning operation. Licenses are limited to the premises for which they are issued and are not transferable to any other property. All licensees who desire to relocate to a new location shall apply to the Select Board or its designee for a new license and if approved they shall relinquish their permit/license from the previous location.
- D. **License Displayed in Premises.** Any licenses issued under this Ordinance must be displayed in a conspicuous place in whatever location of the medical marijuana establishment for which the permit has been issued.
- E. **Updated Information Required.** Any licensee issued a license under this Ordinance has the duty and responsibility to maintain updated and accurate information regarding all the information related to the license as submitted during the application and approval process within ten (10) business days of any change of status. Failure to provide and maintain current and accurate information may result in revocation of the license.

**Fixed Location.** All medical marijuana establishments must be operated from a fixed location which may utilize telephone and internet orders as long as the buyer, on the day the order is made, pays for and picks up, in person, such orders.

- F. Medical marijuana establishments may not use vending machines; they may not have drive-through or drive up windows service sales; may not ship/mail sales through any means, except that medical marijuana registered caregivers may provide delivery services.
- G. **Hours of Operation.** No medical marijuana establishment shall be open to qualified patients earlier than 9:00 A.M. or later than 9:00 P.M.
- H. **License Fee and Costs.** The non-refundable application fee that must be submitted in conjunction with an initial application for a medical marijuana establishment license is **\$250.00**. The non-refundable application fee that must be submitted in conjunction with any renewal application for an existing medical marijuana establishment license is **\$500.00**. The Town of Livermore



Falls Select Board shall have the authority to revise these fees without further revision of this Ordinance.

### **Section 12: Standards For License Denial Or Revocation:**

Renewals of existing licenses shall be denied by the Town of Livermore Falls Select Board, as well an existing license may be suspended or revoked by the Town of Livermore Falls Select Board after notice and hearing if the applicant or licensee, or any of the licensee's officers, members, directors, or partners:

- A. Fails to prove or maintain compliance with all requirements of this Ordinance or with any applicable provision of state law or administrative regulation, including but not limited to 22 M.R.S. Ch. 558-C, as may be amended or recodified;
- B. Has had a license for a medical marijuana establishment revoked by the Town of Livermore Falls or by the State of Maine;
- C. Has not acquired and maintained all necessary State of Maine and local approvals prior to issuance of the license;
- D. Has been convicted of a disqualifying drug offense; or
- E. Has provided false or misleading information in connection with the license application.

### **Section 13: License Renewals:**

Applications for the renewal of a medical marijuana establishment license shall be submitted to the Select Board at least sixty (60) business days prior to expiration of the existing license. **Any licensee that fails to submit a renewal application by the applicable deadline shall not have authority to operate until the license is granted.** License renewal applications shall be processed by the Livermore Falls Town Clerk who shall circulate the application among appropriate Town of Livermore Falls agencies for comment. The Town Manager shall forward the application to the Town of Livermore Falls Select Board with a summary of agency comments. Renewals shall be approved or denied by Town of Livermore Falls Select Board consistent with all licensing standards contained in this Ordinance.

### **Section 14: Violation; Penalties.**

In addition to revocation and/or suspension of a medical marijuana establishment license as provided in this Ordinance, any violations of this Ordinance shall be subject to a minimum fine of \$100.00 per day and a maximum fine of \$2,500.00 per day, pursuant to 30-A M.R.S. § 4452. Each day that a violation remains constitutes a separate violation. The Select Board, or its authorized agent, is authorized to initiate legal proceedings in Maine District Court to enjoin the unlawful operation of a medical marijuana establishment, as provided in this Ordinance. If the Town is the prevailing party in such proceedings, the Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

### **Section 15: Appeals:**

Any appeal of a decision of the Select Board to grant, deny, suspend, or revoke a license pursuant to this Ordinance, shall be to the Town of Livermore Falls Board of

Appeals within thirty (30) days of the date of the decision. The Board of Appeals shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the medical marijuana establishment licensing application, is in compliance with the terms of this Ordinance. Any appeal of a decision of the Board of Appeals shall be to Superior Court, in accordance with 30-A M.R.S. § 2691(2)(G) and Rule 80B of the Maine Rules of Civil Procedure.

## Appendix

### **§2422. Definitions**

(CONFLICT)

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

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

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2013, c. 516, §1 (NEW).]

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

[PL 2017, c. 409, Pt. E, §2 (NEW).]

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

[PL 2017, c. 452, §3 (NEW).]

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

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

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

[PL 2017, c. 452, §3 (NEW).]

1-F. Caregiver retail store. "Caregiver retail store" means a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign,

regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

[PL 2019, c. 217, §1 (NEW).]

2. Debilitating medical condition.

[PL 2017, c. 452, §3 (RP).]

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

[PL 2017, c. 409, Pt. E, §2 (NEW).]

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

[PL 2017, c. 452, §3 (AMD).]

3-A. Extended inventory supply interruption.

[PL 2017, c. 452, §3 (RP).]

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

[PL 2019, c. 528, §12 (AMD).]

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

[PL 2019, c. 528, §12 (AMD).]

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

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

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

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

4-A. Incidental amount of marijuana.

[PL 2017, c. 452, §3 (RP).]

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

[PL 2019, c. 528, §13 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

4-D. Inherently hazardous substance.

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

4-E. Manufacture or manufacturing.

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

4-F. Manufacturing facility.

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

4-G. Marijuana concentrate.

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

4-H. Marijuana extraction.

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

4-I. Marijuana product.

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

4-J. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes. "Marijuana extraction" does not include the process of extracting concentrate from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §15 (AMD).]

4-K. Marijuana plant. "Marijuana plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants. "Marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §15 (AMD).]

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

[PL 2019, c. 528, §15 (AMD).]

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

[PL 2019, c. 528, §15 (AMD).]

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

[PL 2019, c. 331, §2 (NEW).]

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

[PL 2019, c. 528, §16 (NEW).]

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

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

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

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

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

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

4-R. Manufacturing facility. "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F.

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

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

[PL 2019, c. 331, §2 (NEW).]

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

[PL 2019, c. 528, §16 (NEW).]

5. Medical use. "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

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

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

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

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

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

[PL 2019, c. 331, §3 (AMD).]

6-A. Onsite assessment.

[PL 2011, c. 407, Pt. B, §8 (RP).]

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

[PL 2017, c. 452, §3 (NEW).]

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

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

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

[PL 2017, c. 452, §3 (NEW).]

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

cultivation area that are used to cultivate immature marijuana plants and seedlings and that are not used at any time to cultivate mature marijuana plants.

[PL 2019, c. 256, §1 (NEW).]

8. Primary caregiver.

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

8-A. Caregiver. "Caregiver" means a person or an assistant of that person that provides care for a qualifying patient in accordance with section 2423-A, subsection 2.

[PL 2017, c. 452, §3 (AMD).]

9. Qualifying patient. "Qualifying patient" or "patient" means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2017, c. 452, §3 (NEW).]

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

[PL 2017, c. 452, §3 (NEW).]

10. Registered nonprofit dispensary.

[PL 2017, c. 452, §3 (RP).]

11. Registered caregiver. "Registered caregiver" means a caregiver who is registered by the department pursuant to section 2425-A.

[PL 2017, c. 452, §3 (AMD).]

12. Registered patient. "Registered patient" means a qualifying patient who is registered by the department pursuant to section 2425-A.

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2011, c. 407, Pt. B, §13 (NEW).]

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

[PL 2017, c. 452, §3 (NEW).]

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

[PL 2017, c. 452, §3 (NEW).]

14. Prepared marijuana.

[PL 2017, c. 452, §3 (RP).]

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

[PL 2019, c. 331, §4 (RPR).]

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

[PL 2017, c. 452, §3 (NEW).]

15. Visiting qualifying patient. "Visiting qualifying patient" means a patient who is authorized for the medical use of marijuana in this State in accordance with section 2423-D and who is not a resident of the State or who has been a resident of the State less than 30 days.

[PL 2017, c. 452, §3 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

#### SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §§8-19 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §§1-15 (AMD). PL 2013, c. 361, §1 (AMD). PL 2013, c. 396, §1 (AMD). PL 2013, c. 503, §1 (AMD). PL 2013, c. 516, §§1-5 (AMD). PL 2015, c. 475, §§1-5 (AMD). PL 2017, c. 409, Pt. E, §2 (AMD). PL 2017, c. 447, §§1-3 (AMD). PL 2017, c. 452, §3 (AMD). PL 2019, c. 217, §1 (AMD). PL 2019, c. 256, §1 (AMD). PL 2019, c. 331, §§1-4 (AMD). PL 2019, c. 528, §§12-16 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

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## Title 28-B: ADULT USE MARIJUANA

### Chapter 1: MARIJUANA LEGALIZATION ACT

#### Subchapter 4: LOCAL REGULATION OF MARIJUANA ESTABLISHMENTS

##### §403

### **§402. Local authorization of marijuana establishments within municipalities**



1. Request for local authorization to operate marijuana establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a marijuana establishment within a municipality may not request local authorization to operate the marijuana establishment pursuant to subsection 3 and a municipality may not accept as complete the person's request for local authorization unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. The person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

2. Minimum authorization criteria. A municipality may not authorize the operation of a marijuana establishment within the municipality if:

A. The marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12; or [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. The person requesting local authorization to operate the marijuana establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

3. Local authorization required for operation of marijuana establishment within municipality. A person may not operate a marijuana establishment within a municipality unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment; [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. The person has obtained all applicable municipal approvals, permits or licenses that are required by the municipality for the operation of that type of marijuana establishment; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

C. The person has been issued by the department an active license to operate the marijuana establishment pursuant to section 205, subsection 4. [PL 2017, c. 409, Pt. A, §6 (NEW).]

A municipality may certify to the department a person's compliance with the requirements of paragraph B on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

4. Municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality, the municipality's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

5. Appeal of municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality within 90 days after the date the person submitted the request to the municipality, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the municipality notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the municipality fails to act on the request within 180 days after the date the person submitted the request to the municipality.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY PL 2017, c. 409, Pt. A, §6 (NEW)