

Addendum # 2
DRAFT AMENDMENT TO THE MARIJUANA ORDINANCE -4-23-2024

§ 215-2.1 Word usage and definitions.

ADULT USE MARIJUANA CULTIVATION FACILITY

A “cultivation facility,” as that term is defined in 28-B M.R.S. § 102(13), as may be amended or recodified.

ADULT USE MARIJUANA STORE

A “marijuana store,” as that term is defined in 28-B M.R.S. § 102(34), as may be amended or recodified.

LICENSED DAYCARE

A “child care facility,” as that term is defined in 22 M.R.S. § 8301-A(1-A)(B), as may be amended or recodified.

MARIJUANA ESTABLISHMENT

An “adult use marijuana cultivation facility,” a “medical marijuana registered dispensary,” or an “adult use marijuana store,” as those terms are defined in this Section. The term “marijuana establishment,” does not include a medical marijuana caregiver.

MARIJUANA

“Marijuana,” as that term is defined in 28-B M.R.S. § 102(27), as may be amended or recodified.

MARIJUANA CULTIVATION AREA

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

MARIJUANA PARAPHERNALIA

Equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, or concealing marijuana.

MARIJUANA PRODUCT

A “marijuana product,” as defined in 22 M.R.S. § 2422(4-L), as may be amended or recodified; provided, however, that when used in the context of this Chapter, a “marijuana product” may refer to both a product containing marijuana intended for adult use and a product containing marijuana intended for medical use, all as defined in and regulated by State law.

MEDICAL MARIJUANA CAREGIVER

A “caregiver,” as that term is defined in 22 M.R.S. § 2422(8-A), as may be amended or recodified.

MEDICAL MARIJUANA REGISTERED DISPENSARY

A “registered dispensary,” as that term is defined in 22 M.R.S. § 2422(6), as may be amended or recodified.

PLANT CANOPY

“Plant canopy,” as that term is defined in 28-B M.R.S. § 102(41), as may be amended or recodified.

SCHOOL

A “public school,” as defined in 20-A M.R.S. § 1(24), a “private school,” as defined in 20-A M.R.S. § 1(22), or a “public preschool program,” as defined in 20-A M.R.S. § 1(23-A), all as may be amended.

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SENSITIVE USE

A school, a licensed daycare, a dwelling unit, or another marijuana establishment. Setback requirements pertaining to sensitive uses are more particularly defined in § 215-5.18(C).

§ 215-4.5 Village District (V)

B. Permitted uses.

2. The following uses require site plan review:
 - (t) Adult use marijuana cultivation facility.

§ 215-4.7 Commercial District (C)

C. Permitted uses.

2. The following uses require site plan review:
 - (jj) Marijuana establishment.

§ 215-5.18 Marijuana establishments.

A. Applicability; Local Limitation on Number and Size of Marijuana Establishments; Prohibition on All Others

1. Applicability. This Section applies to any marijuana establishment located or proposed to be located wholly or partially within the geographic boundaries of the Town. Any application for a marijuana establishment, including any proposed amendments to a previously authorized marijuana establishment, requires site plan review and approval by the Planning Board, consistent with § 215-7.2(A)(8) of the Code.
2. Limitation on Number of Medical Marijuana Registered Dispensaries and Adult Use Marijuana Stores. The following limits to the number of medical marijuana dispensaries and adult use marijuana stores shall apply. The following limits apply on a first-come, first-served basis. For purposes of this Chapter, a medical marijuana registered dispensary and/or an adult use marijuana store shall be considered established and operating when a building permit has been issued by the Code Enforcement Officer. A medical marijuana registered dispensary or an adult use marijuana store that has failed, in the determination of the Code Enforcement Officer, to conduct or carry on business as permitted by this Chapter for a period of six (6) consecutive months, shall be presumed abandoned. The operator of a medical marijuana registered dispensary and/or an adult use marijuana store shall be given notice of such presumption and unless the operator is able to rebut the presumption within a reasonable period of time, a new medical marijuana registered dispensary and/or a new adult-use marijuana store shall be allowed to apply for approvals necessary to begin operation, on a first-come, first served basis.
 - (a) Medical Marijuana Registered Dispensary: no more than one (1) medical marijuana registered dispensary shall be issued a certificate of occupancy to operate within the Town at any one time.

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- (b) Adult Use Marijuana Store: no more than two (2) adult use marijuana stores shall be issued a certificate of occupancy to operate within the Town at any one time.
 - 3. Limitation on Canopy Size of Adult Use Marijuana Cultivation Facilities.
 - (a) No adult use marijuana cultivation facility may be licensed as a “Tier 4 Cultivation Facility,” by the State of Maine Office of Marijuana Policy, as is more particularly defined in 28-B M.R.S. § 301(4), as may be amended or recodified.
 - (b) No adult use marijuana cultivation facility operating within the Town may allow for the cultivation of more than 7,000 square feet of total plant canopy at any one time.
 - 4. Marijuana Businesses Not Expressly Allowed Are Prohibited. The Town of Casco has not “opted-in” or otherwise permitted the following types of marijuana businesses to operate within the Town, and the operation of the same is expressly prohibited:
 - (a) Adult-use marijuana “testing facility,” as defined in 28-B M.R.S. § 102(54), as may be amended or recodified;
 - (b) Adult-use marijuana “products manufacturing facility,” as defined in 28B M.R.S. § 102(43), as may be amended or recodified;
 - (c) Medical “marijuana testing facility,” as defined in 22 M.R.S. §2422(5-C), as may be amended or recodified;
 - (d) Medical marijuana “manufacturing facility,” as defined in 22 M.R.S. §2422(4-R), as may be amended or recodified; or
 - (e) Medical marijuana “caregiver retail store,” as defined in 22 M.R.S. § 2422(1-F), as may be amended or recodified.
- B. Application Submission Requirements.** An application for a building permit for a marijuana establishment must include the following:
- 1. Documentation of any required state approvals connected with the marijuana establishment, including the licensing or registration of entities engaged in such operation.
 - 2. Proposed hours of operation for the marijuana establishment.
 - 3. Property and building security plans must be submitted to the Code Enforcement Officer at the time of filing a site plan application. If the site plan application is approved, the applicant must also submit amendments, if any, to such security plans to the Code Enforcement Officer and the Cumberland County Sheriff’s Officer at the time such amendments are made.
 - 4. Written statements, maps, and other documentation addressing each of the additional review criteria set forth in subsection C, below. At minimum, such documentation must include:

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- (a) A drawn-to-scale map of all lots within 1,000 feet of the lot lines of the site on which the marijuana establishment is proposed to be located. The map must identify the location of any of the sensitive uses identified in subsections C.1, C.2, and C.3, below.
- (b) Statements that the marijuana establishment will be operated from a permanent, indoor location; will not allow for the outdoor cultivation of marijuana; will not have drive-through or drive-up facilities of any type; and will not display marijuana, marijuana products, or marijuana paraphernalia so as to be visible from outside of the premises.
- (c) Documentation evidencing compliance with the security and police services impacts criteria in subsection C.6.
- (d) A detailed odor and emissions control plan describing and documenting the equipment, practices, and technologies proposed to be used to control odors and emissions in accordance with subsection C.8.
- (e) An operations plan for proper disposal of marijuana, marijuana products, and related by-products in accordance with State law.
- (f) For any proposed marijuana cultivation area, the proposed plant canopy size and the location of the marijuana cultivation area in relation to the remainder of the structure containing the marijuana establishment.
- (g) Illustrations and graphics of all proposed signage and advertising associated with the marijuana establishment.
- (h) Evidence of compliance with state and local labeling and packaging laws and rules for marijuana and marijuana products.
- (i) Plans for the storage of goods in a secure area and documentation evidencing that the goods will not be prepared, produced, or assembled so as to appeal to persons under 21 years of age.

C. **Additional Review Criteria.** In addition to the general review criteria in § 215-5.1 of this Code, a marijuana establishment must comply with the following review criteria:

1. Setbacks from Licensed Daycares and Schools. No marijuana establishment may be located within 1,000 feet of any pre-existing licensed daycare or school, as defined in §215-2.1.

- (a) The distances established in this subsection C.1 must be measured from the primary entrance of the marijuana establishment to the primary entrance of the licensed daycare or school, as measured along street lines.
- (b) A marijuana establishment may continue to operate in its present location as a pre-existing use if a licensed daycare or school later locates within the 1,000-foot setback area, but the marijuana establishment does so at its own risk and Town-issued permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana establishments proximate to such a licensed daycare or school.

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2. Setbacks from Pre-Existing Dwelling Units. The primary **building** entrance of any marijuana establishment may not be sited fewer than 300 feet, ~~as measured along street lines,~~ from ~~the primary entrance of~~ an existing dwelling unit. **For purposes of this section, the primary entrance of a marijuana establishment refers to the physical entrance to the building through which customers enter, which shall face the road or street that provides the subject property with frontage. The measurements of setback from a primary building entrance shall be measured by drawing a 300-foot radius from the primary building entrance of the marijuana establishment. An entrance will not be permitted if the 300-foot radius intersects with any portion of a dwelling unit.**
3. Setbacks from Other Marijuana Establishments. The primary entrance of a structure containing a marijuana establishment may not be located within 2,000 feet of the primary entrance of another marijuana establishment, as measured along street lines.
4. A marijuana establishment must be operated from a permanent, indoor location; must remain in its approved location; and may not operate as a mobile establishment or operation.
5. No Drive-Trough's. Marijuana establishments are prohibited from having drive-through or drive-up facilities of any type.
6. Security, Impact on Local Public Safety Services. The owner or operator of a marijuana establishment must:
 - (a) Install security surveillance cameras, recording and operating 24 hours a day, seven days a week, to monitor all entrances and the exterior of the premises to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises. All video surveillance recordings must be retained for a minimum of 15 business days. Upon request, the security recordings must be made available to the Town of Casco or the Cumberland County Sheriff's Office.
 - (b) Provide the Code Enforcement Officer and Cumberland County Sheriff's Office with the name and functioning telephone number of a 24-hour on call staff person to whom notice of any operating problems associated with the marijuana establishment may be given, and must keep the name and contact information updated.
 - (c) Maintain and provide, upon request, all property and building security plans to the Code Enforcement Officer.
 - (d) Install door and window intrusion robbery and burglary alarm systems with audible and notification components that are professionally monitored and maintained in good working condition.
 - (e) Maintain a locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all marijuana, including marijuana products, and cash stored overnight on the premises. A "functional equivalent" may include the provision of secure and restricted

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access to indoor spaces housing plant canopy, immature marijuana plants, or seedlings.

7. Display. No marijuana, marijuana products, or marijuana paraphernalia may be displayed or kept to be visible from outside of the premises of the marijuana establishment.
8. Control of Odors, Emissions, and Trash.
 - (a) The odor of marijuana must not be perceptible at or beyond the property boundary lines of any property upon which a marijuana establishment is located.
 - (b) Adequate provision must be made to prevent smoke, debris, dust, fluids, and other noxious gases, fumes, and substances from exiting a marijuana establishment at all times. All such substances must be controlled and disposed of in a safe, sanitary, and secure manner.
 - (c) A marijuana establishment must have in place an operations plan for the disposal of marijuana, marijuana products, and related by-products in a safe, sanitary, and secure manner and in accordance with all applicable laws and regulations.
 - (d) Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers must be screened from public view. All trash receptacles on the premises of a marijuana establishment that are used to discard marijuana and marijuana products must have a metal cover or lid that is locked at all times, and the disposal of all marijuana waste must be in compliance with all applicable State laws and regulations.
9. Marijuana Cultivation Areas. Outdoor cultivation of marijuana associated with any marijuana establishment is prohibited.
10. Signage and Advertising. All signage and advertising associated with a marijuana establishment must comply with the requirements of State law, the applicable requirements of §215-5.28 of this Code and the following additional standards:
 - (a) Use of advertising material that is misleading, deceptive, or false, or that is designed to appeal to a person under 21 years of age is prohibited.
 - (b) Exterior signs may not advertise marijuana strains by name.
11. Labeling, Packaging, and Food Products.
 - (a) All medical marijuana (including any medical marijuana products) sold, prepared, produced, or assembled by a marijuana establishment must be packaged and labeled as required by applicable State law and regulations.
 - (b) All adult use marijuana (including any adult use marijuana products) sold, prepared, produced, or assembled by a marijuana establishment must be packaged and labeled as required by applicable State laws and regulations.

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- (c) No food products may be sold, prepared, produced, or assembled by a marijuana establishment except in compliance with all operating and other requirements of state and local laws and regulations, including food establishment licensing requirements.
- (d) Any goods containing marijuana for human consumption must be stored in a secure area.
- (e) Any goods containing marijuana for human consumption must not be prepared, produced, or assembled so as to make the goods specifically appeal to persons under 21 years of age.

12. Inspections.

- (a) The CEO and Fire Chief must inspect every marijuana establishment prior to issuance of a certificate of occupancy by the CEO to verify that the marijuana establishment is constructed and can be operated in accordance with the application submitted, the site plan approval, the requirements of this Code, local and state building codes, electrical codes, fire codes, and any other applicable life safety codes. No marijuana or marijuana products associated with a marijuana establishment will be allowed on the premises until the inspection is complete and a Certificate of Occupancy has issued.
- (b) The CEO and Fire Chief may additionally inspect a marijuana establishment as part of their ordinary duties and responsibilities.

§ 215-5.19 Medical marijuana caregivers

- A. The outdoor cultivation of marijuana by a medical marijuana caregiver is strictly prohibited.

§ 215-7.2 Activities requiring site plan review.

- A. Site plan review and approval shall be required for the following activities:

(8) Marijuana establishments, as defined in this Chapter.