

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

1. ADD Title 5.11 Marijuana Businesses as follows:

CHAPTER 5.11 Marijuana Businesses

5.11.1. Purpose and Authority

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

5.11.2. Definitions

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

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

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

Licensee means a person licensed pursuant to this Title.

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

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

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

Medical Marijuana Registered Caregiver Home Establishment means a permitted medical marijuana registered caregiver business operating on the property of a dwelling unit serving as a primary residence of the Registered Caregiver.

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

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

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

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

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

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

37 **5.11.3. License Requirement**

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

44
45 **5.11.4. Licensing Authority**

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

50 **5.11.5. Licensing Procedures**

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

55 A. Application. License applications must be submitted to the Town in writing using a form prepared by
56 the Town for the purpose and must include all information required by this Title and by the form.
57 Applications for initial licensure of Marijuana Retail Stores may not be accepted until the applicant has
58 been pre-certified in accordance with Section 5.11.9.C.

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

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

66 D. Staff Review. No license may be granted by the Licensing Authority until the Town Manager, Police
67 Chief, Fire Chief, Code Enforcement Officer, and other staff as deemed appropriate by the Town
68 Manager, have all made positive recommendations regarding the Applicant's ability to comply with this
69 Title or any other applicable Town ordinance, Planning Board conditions of approval, or state or federal
70 law enforced by such officials.

- 71 E. Renewal. For renewal licenses, the application, fee and review process are the same as for initial
72 licenses except that the Town Manager is the Licensing Authority. If any reviewing staff member finds
73 that new conditions should be attached to the renewal license or that the renewal license should be
74 denied, the renewal application must be forwarded to the Town Council for final action. Renewal
75 licenses for Marijuana Retail Stores may be granted by the Town Manager only upon a finding that the
76 Store has in the past license term been operating in accordance with this Title as well as with the
77 Store’s previously submitted Operations Plan.
- 78 F. Type of License. Licenses may be approved only for the type(s) of use identified in the application. A
79 Licensee who intends to expand or convert the Licensed Premises to a different type of use that is not
80 specifically approved in a license must obtain a new license for that use.
- 81 G. State Approvals. Any Licensee that is required to obtain approval from the State of Maine will provide
82 the Town copies of all necessary approvals prior to operating the licensed business.
- 83 H. Inspection. Any Licensee must, prior to operating the licensed business, contact the Town to request an
84 inspection to determine the compliance, as built, with the requirements of this Title, any conditions of
85 licensure, and the submitted Operations Plan (if applicable). Any municipal official with authority to
86 make recommendations, grant licenses or enforce this or other municipal ordinances regarding
87 Marijuana Businesses or Medical Marijuana Registered Caregiver Home Establishments has authority
88 to enter the premises of an Applicant or Licensee without notice during operating hours to make any
89 inspection reasonably necessary to ensure continued compliance with all applicable Town ordinances.
- 90 I. License term. Each license issued under this Title is valid for the term of license granted by the State
91 License Authority (“the license year”), or otherwise for one (1) year from the date of issuance.
92 Applications for renewal licenses should be submitted no fewer than 60 days prior to expiration of the
93 existing term to allow for timely processing. Any Licensee who fails to apply for a renewal license
94 prior to expiration of the existing term does not have authority to operate until a renewal license is
95 granted. A late fee of 10% of the total license fee will be assessed to applications submitted 1 to 30
96 days past expiration of the existing license, and 20% will be assessed for applications submitted
97 thereafter. Any Marijuana Retail Store which fails to obtain a renewal license within 30 days following
98 expiration of the existing term forfeits its license, unless the applicant timely submitted the application
99 and the delay is due to circumstances not within the applicant’s control.
- 100 J. Forfeiture. A License is forfeited if the Licensee:
- 101 1. Fails to obtain a renewal license within thirty (30) days of expiration of an existing license;
- 102 2. Makes any other active use of the Licensed Premises other than for the licensed business
103 operation; or
- 104 3. Is not actively operating the licensed business for a period exceeding six (6) consecutive
105 months, except that the Licensing Authority may, upon written request from the Licensee, allow for
106 a suspension of use of up to one year if the suspension in use is caused by damage to the Licensed
107 Premises, renovation, repair, active attempts to sell the Licensed Premises as a turnkey business
108 operation, or other bona fide circumstances out of the Licensee’s control.

109 **5.11.6. Application Submission Requirements**

110 Each applicant for a license must complete and file an application on the form provided by the Town,
111 together with the applicable license fee. If multiple types of business operations are to be conducted on a

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

- 151 L. For Marijuana Retail Stores, an Operations Plan, describing the Applicant's:
152 1. Security plan;
153 2. Provisions to ensure against loitering and using marijuana and marijuana products on or near the
154 Premises;
155 3. Protocols for hiring and training employees;
156 4. Experience and training in the State of Maine's seed-to-sale tracking system;
157 5. Protocols for odor control and disposal of waste marijuana or marijuana products; and
158 6. Protocols for ensuring the safety and security of product.
159 7. Fire Suppression annual certification

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

163 **5.11.7 Transfer of Ownership**

164 A license for a Marijuana Business may be transferred to another owner if an updated application form and
165 ownership affidavit are provided to the Town and all persons listed on the affidavit successfully pass
166 background checks and otherwise meet the criteria of this Title. See Section 5.11.9.F regarding transfer of
167 licenses for Marijuana Retail Stores.

168 **5.11.8 Transfer of Location**

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

172 **5.11.9 Limit on and Special Procedures for Marijuana Retail Stores**

173 A. Limit on marijuana retail store licenses. No more than one licensed marijuana retail store will be
174 permitted per allowable zone as described in Title 16.3.

175 B. No business may have more than one Marijuana Retail Store license in Kittery. The Town will utilize the
176 Maine Tax Identification Number to determine compliance.

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

- 180 1. Pre-application forms will be available starting on the effective date of this Title. Applicants
181 seeking licensure as a Marijuana Retail Store must complete the form and return it to the Town
182 along with the following supporting documentation:
183 a. Completed, signed and notarized ownership affidavit
184 b. Pre-application fee
185 c. Evidence of right, title and interest in the Premises (deed, purchase and sale agreement, lease
186 and/or sublease) or the property owner's permission to operate at that location, if the applicant
187 is not the owner (letter from owner).
188 d. Evidence demonstrating the applicant's financial capacity to build out (if applicable) and
189 operate the Marijuana Retail Store (e.g., bank letter, letter of credit, loan commitment)
190 e. Evidence demonstrating that the applicant has applied for conditional licensure from the State
191 of Maine

192 2. Upon receipt of a pre-application, the Town must note the date and time of the receipt and,
193 without unreasonable delay, process the application to determine whether all required fields have
194 been filled and all required supporting documentation has been provided. If the Town
195 determines that a submitted pre-application is not complete, it must notify the applicant of the
196 additional information required to process the pre-application. If such additional information is
197 not submitted by the deadline set by the Town, the pre-application will be rejected.

198 3. The Town Manager must evaluate complete pre-applications and certify the eligibility of
199 applicants if they meet the following standards:
200 a. The applicant has demonstrated right, title and interest in the Premises or owner permission to
201 operate at the location;
202 b. The applicant has demonstrated adequate financial capacity to build out (if applicable) and
203 operate the retail store.
204 c. The Premises is located in a zone in which Marijuana Retail Stores are permitted.
205 d. The applicant has applied for or received conditional license approval from the State of Maine
206 for the subject Marijuana Retail Store.

207 4. The Town Manager must issue a written decision to the applicant indicating whether it has met
208 the standards for pre-application certification. Applications for licensure may be submitted as
209 soon as the certification decision is issued.

210 A.D. Priority. Pre-license applications for Marijuana Retail Stores will be received and processed until the
211 deadline date announced by the Town on the first day pre-applications will be accepted. The deadline
212 will be no less than 30 days and no more than 45 days from the first day applications will be accepted.

213 Licenses for Marijuana Retail Stores will be assigned based on lottery, conducted by the Town, within 10
214 days of the deadline for pre-applications. The first pre-application selected by lottery for each allowable
215 zone will be invited to provide a completed license application within thirty (30) days, which will be
216 processed in accordance with Section 5.11.6

217 E. Waiting list procedures. A wait list will be established by lottery for each allowable zone, at the same
218 time the Priority lottery is conducted for Section 5.11.9.D. Once the wait list is established, each new
219 applicant will be added to the end of the wait list. If a license for a Marijuana Retail Store becomes
220 available, the Town will invite the next applicant on the wait list for the corresponding zone, to apply
221 for licensure. If such applicant does not submit an application within thirty (30) days from invitation,
222 the Town must proceed to the next applicant. Applications will not be processed from the wait list if
223 there have been any material changes to ownership, as indicated on the ownership affidavit, or where
224 there is a change to location of the Premises.
225

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

- 236 **5.11.10 Denial, Revocation or Suspension of a License**
237 A license application for a Marijuana Business or Medical Marijuana Registered Caregiver Home
238 Establishment must be denied by the Licensing Authority, suspended by the Town Manager, or after notice
239 and hearing revoked by the Town Council, if the Applicant, or any Owner of the Applicant or Licensee:
- 240 A. Fails to meet the requirements of this Title.
- 241 B. Is not at least twenty-one years of age.
- 242 C. Has had a license required for the Marijuana Business or Medical Marijuana Registered Caregiver
243 Home Establishment suspended or revoked by the Town, by a municipality in the State of Maine, or
244 by the State of Maine.
- 245 D. Is in violation of this or any ordinance or has unpaid penalties assessed by a court, related to the
246 Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment.
- 247 E. Has not acquired all necessary state and local approvals (other than final state approval) prior to
248 issuance of the license.
- 249 F. Fails to meet zoning or other requirements of the Land Use and Development Code.
- 250 G. Has been convicted of a criminal violation arising out of operation of a Marijuana Business.
- 251 H. Has, within ten years prior to the date of the application, been convicted of selling marijuana, alcohol,
252 or any scheduled drug to a minor.
- 253 I. Has provided false or misleading information in connection with the license application.
- 254 **5.11.11 Approval and Operating Requirements**
255 In order to obtain and retain a license pursuant to this Title, the Applicant/Licensee must demonstrate
256 that the following requirements are met. The Licensee must comply with each of these requirements
257 during the term of the license:
- 258 A. Display of License. The current License must be displayed at all times in a conspicuous location
259 within the Premises.
- 260 B. Premises. All Licensed Premises must be fixed, permanent locations. Licensees are not permitted
261 to operate Marijuana Establishments in other than the Licensed Premises, such as at farmer's
262 markets, farm stands or kiosks.
- 263 C. Loitering. The facility owner/operator must make adequate provisions to prevent patrons or other
264 persons from loitering on the Premises. It is the Licensee's obligation to ensure that anyone found to be
265 loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a
266 Licensed Premises is ordered to leave.
- 267 D. Other laws. A Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment
268 must meet all operating and other requirements of state and local law. To the extent the State of Maine
269 has adopted or adopts in the future any law or regulation governing marijuana businesses that conflicts
270 in any way with the provisions of this Title, the more restrictive provisions control.

271 E. Changes to operations. Marijuana Businesses and Medical Marijuana Registered Caregiver Home
272 Establishment must operate in accordance with all material representations made in the approved
273 license application and Operations Plan (if applicable). If the Licensee is required to notify the State of
274 a change related to the Marijuana Business, the Licensee must promptly provide the Town with a copy
275 of such notification. If the Town determines that the change is not in accordance with the requirements
276 of this Title, or requires additional conditions of approval, the change must be forwarded to the Town
277 Council for consideration.

278 **5.11.12 Appeals**

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

- 282 1. Appeal of the Town Manager’s denial of an application.
- 283
- 284 2. Appeal by any aggrieved party having legal standing of any decision by the Town Manager to grant a
285 license under this Title.
- 286
- 287 3. Appeal by a Licensee challenging conditions attached to a License, to which the Licensee objects.

288 Appeals must be filed with the Town Clerk within thirty (30) days of the date of the decision subject to
289 appeal. The Town Council must hold the hearing on the appeal and render a decision within thirty (30)
290 days of the date of the appeal, unless all parties consent to a delay.

291 B. Appeals from any decision of the Town Council under this Title may be made only to York County
292 Superior Court within thirty (30) days of the date of the decision being appealed.

293 **5.11.13 Enforcement and Penalties**

294 The operation of any Marijuana Business or Medical Marijuana Registered Caregiver Home Establishment
295 without the required license or in violation of the requirements of this Title is a violation of this Title. The
296 Town Manager must enforce the provisions of this Title. A violation of any provision of this Title is a
297 civil violation, and a civil penalty of \$250 to \$2,500 applies and may be assessed for each day that the
298 violation continues. The penalty for operating a Marijuana Business or Medical Marijuana Registered
299 Caregiver Home Establishment without a valid license is \$2,500 per day for Marijuana Retail Stores and
300 \$500 per day for other Marijuana Businesses or Medical Marijuana Registered Caregiver Home
301 Establishments. The Town Manager may suspend the license, and the Town Council may revoke the
302 license after notice and hearing.

303 **5.11.14 Other Laws**

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

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

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

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

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

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

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

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

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

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

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

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

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

335 MARIJUANA BUSINESS means an Adult Use Marijuana Store, Marijuana Cultivation Facility, Medical
336 Marijuana Registered Dispensary, Medical Marijuana Caregiver Retail Store, Marijuana Manufacturing
337 Facility, or Marijuana Testing Facility.

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

- 342 Tier 1: Up to 500 square feet of plant canopy
343 Tier 2: Up to 2,000 square feet of plant canopy
344 Tier 3: Up to 7,000 square feet of plant canopy
345 Tier 4: Up to 20,000 square feet of plant canopy

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

350 MARIJUANA MANUFACTURING FACILITY means (1) a registered tier 1 or tier 2 manufacturing
351 facility, as designated by state law, or a person authorized to engage in marijuana extraction under 22 MRS
352 §2423- F; or (2) a facility licensed under M.R.S. 28-B, Subchapter 2 to purchase marijuana from a cultivation
353 facility or another products manufacturing facility; to manufacture, label and package marijuana and
354 marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products
355 manufacturing facilities.

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

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

361 MEDICAL MARIJUANA REGISTERED CAREGIVER HOME ESTABLISHMENT means a medical
362 marijuana registered caregiver business operating on the property of a dwelling unit serving as the primary
363 residence of the Registered Caregiver.

364 MEDICAL MARIJUANA REGISTERED DISPENSARY means an entity registered under 22 M.R.S. §

365 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or
366 dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying
367 patients and the caregivers of those patients.

368 RECREATION, PUBLIC FACILITY means a facility open to the general public, for no charge or a
369 subsidized charge, where organized recreational or athletic activities and events are held.

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

370 Medical Marijuana Registered Caregiver Home Establishment

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

371 § 16.3.2.11 Commercial (C-1, C-2, C-3).

372 (1) C-1 special exception uses.

373 (p) Marijuana Business, except a Marijuana Cultivation Facility

374 (2) C-2 special exception uses.

375 (q) Marijuana Business

376 (3) C-3 special exception uses.

377 (q) Marijuana Business

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

378 §16.8.29 Marijuana Businesses

379 16.8.29.1 General

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

383 16.8.29.2 Standards

384 Marijuana Businesses must meet the following standards:

385 A. Marijuana Businesses may not locate within 1,000 feet of a public or private school or a public recreation
386 facility measured from the exterior wall of the Marijuana Business in a straight line to the property line of
387 the protected use. This section does not prohibit the activity of a caregiver or other authorized individual
388 from administering medical marijuana to a qualified patient who is located within one of these protected
389 areas.

390 B. Marijuana Businesses may not have any odor of marijuana detectible beyond the area controlled by the
391 business, whether that be a leased or owned area that is a portion or all of a recorded parcel of land.

- 392 Odors must be controlled by whatever best practices exist.
- 393 C. Marijuana grown by any Marijuana Business may be grown indoors only. For the purpose of this section
394 hoop houses or outdoor tunnels must not be considered as an indoor growing facility and are prohibited
395 for marijuana cultivation by a Marijuana Business.
- 396 D. The design of any building containing a Marijuana Business must conform to the standards within this
397 Title and the Town of Kittery Design Handbook.
- 398 E. The area of any Marijuana Business accessible to customers must be no less than 400 nor more than
399 2,000 square feet.
- 400 F. Parking must conform to Article IX.
- 401 G. Any building containing a Marijuana Business must be protected by fire suppression measures and fire
402 alarms to the satisfaction of the Fire Chief and in accordance with all applicable building codes.
- 403 H. The Owner of any Marijuana Business, at the time of application for a building permit, must provide an
404 affidavit from a master electrician or electrical engineer certifying that the electrical components can
405 meet the electrical load demands of the use.
- 406 I. Security.
- 407 1. The Licensed Premises must have video surveillance capable of covering the exterior and interior of
408 the facility. The video surveillance system must be operated with continuous recording twenty-four
409 hours per day, seven days per week and video retained for a minimum duration of thirty (30) days.
410 Such records must be made available to law enforcement agencies when investigating a criminal
411 complaint.
- 412 J. The Licensed Premises must have an approved wastewater discharge plan in accordance with this Title and
413 Title 13.
- 414 K. The Licensed Premises must have exterior lighting that conforms with this Title and the Town of Kittery's
415 Design Handbook. The Planning Board, at its discretion, may require motion sensors covering the full
416 perimeter of the building(s).

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

417 **§16.8.30 Medical Marijuana Registered Caregiver Home Establishment**

418 **16.8.30.1 General**

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

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

433 **16.8.30.2 Standards**

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

439

440 A. Manufacturing of medical marijuana products may occur only in zoning districts where a Marijuana
441 Manufacturing Facility is permitted.

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

446 C. The Registered Caregiver must provide documentation demonstrating ownership of the dwelling unit or a
447 lease agreement permitting the registered caregiver to operate a Medical Marijuana Registered Caregiver
448 Home Establishment.

449 D. A Medical Marijuana Registered Caregiver Home Establishment must be an accessory use of the
450 property, and is limited to utilize 40% or 400-square feet, whichever is greater, of the total floor area
451 available within the dwelling unit.

452 E. A Medical Marijuana Registered Caregiver Home Establishment is permitted only to see patients,
453 provide consultations, and perform other functions, pursuant to 22 M.R.S. 558-C §2423-A.

454 F. Hours of operation may be between 7 am and 7 pm Sunday through Saturday inclusive, and must be by
455 appointment only.

456 G. A Medical Marijuana Registered Caregiver Home Establishment may not have more than three (3)
457 employees.

458 H. There must be adequate parking on the lot to accommodate the property’s residents in accordance with
459 this Title and zone-specific standards of this Title; provided that at a minimum the site must include two
460 parking spots plus one spot for each employee.

461 I. A Medical Marijuana Registered Caregiver Home Establishment must mitigate offensive odors such
462 that they are not detectable by reasonable means at the property lines. Odors must be controlled by
463 whatever best practices exist.

464 J. A Medical Marijuana Registered Caregiver Home Establishment is permitted to cultivate a cumulative
465 total of 30 mature plants or 500 square feet of plant canopy, 60 immature plants, and unlimited
466 seedlings. Cultivation may occur indoors, outdoors, or both.

467 K. The installation and displaying of signage advertising the presence of a Medical Marijuana Registered
468 Caregiver Home Establishment on a lot is prohibited.

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

469 **§16.10.3.8.1 Marijuana Businesses and Medical Marijuana Registered Caregiver Home**
470 **Establishments**

471 A. The Planning Board is the reviewing authority for all applications for new Marijuana Business
472 applications.

473 **§16.10.11 Medical Marijuana Registered Caregiver Home Establishment**

474 **§16.10.11.1 General**

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

480 **§16.10.11.2 Permit required.**

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

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

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

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

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

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

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

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

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

495 § 16.8.22.3 **Major home occupation standards.**

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