

This ordinance is presented as a sample only. Municipalities are strongly encouraged to work with their local attorney to draft final ordinance language that is tailored to their needs.

[*Note:* Ordinances must be adopted by the municipal legislative body (council or town meeting). If the legislative body is town meeting, a warrant article to adopt this ordinance should read: "Shall an ordinance entitled 'Municipality of \_\_\_\_\_Adult Use Marijuana Home Cultivation Ordinance' be enacted?" In addition, an attested copy of the ordinance must be posted along with the warrant.]

[Plantations under the jurisdiction of the Maine Land Use Planning Commission must follow LUPC adoption procedures.]

## **MUNICIPALITY OF \_\_\_\_\_**

### **ADULT USE MARIJUANA HOME CULTIVATION ORDINANCE**

#### **Section 1. Purpose.**

The purpose of this ordinance is to regulate the home cultivation of adult use marijuana within the municipality.

#### **Section 2. Authority.**

This Ordinance is enacted pursuant to the Marijuana Legalization Act, 28-B M.R.S. § 1502(3).

#### **Section 3. Definitions.**

For purposes of this ordinance, the following terms have the following meanings.

“Adult use” means the use of marijuana for recreational, non-medical purposes in accordance with the Marijuana Legalization Act, 28-B M.R.S. §§ 101-1504.

“Domicile” means a person’s established, fixed, permanent or ordinary dwelling place or legal residence to which, whenever the person is absent, the person has the intention of returning. A person may have only one domicile.

“Cultivate or Cultivation” means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana.

“Home Cultivation” means the cultivation of adult use marijuana for personal use in accordance with the Marijuana Legalization Act, 28-B M.R.S. § 1502.

“Immature marijuana plant” means a marijuana plant that is not a mature marijuana plant or a seedling.

“Marijuana” means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. “Marijuana” does not include hemp as defined in Title 7, section 2231.

“Marijuana plant” means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling. “Marijuana Plant” does not include hemp as defined in Title 7, section 2231.

“Mature marijuana plant” means a marijuana plant that is flowering.

“Own or Owned” means to have legal title in fee simple, evidenced by a deed or equivalent instrument. “Own” does not include rental agreements, leasehold interests, easements or rights of way, licenses or permissions to use real estate.

“Parcel of land” means all contiguous land in the same ownership. Lands located on opposite sides of a public or private road are considered one parcel of land.

“Person” means a natural person.

“Seedling” means a marijuana plant that is not flowering, is less than 6 inches in height, and less than 6 inches in width.

#### **Section 4. Limitation on Adult Use Home Cultivation.**

A person 21 years of age or older may, for personal use, cultivate no more than three (3) mature marijuana plants, twelve (12) immature marijuana plants, and an unlimited number of seedlings, either on the parcel of land where the person is domiciled, or on a parcel of land within the municipality which the person owns but where the person is not domiciled, but not both.

A person may not cultivate marijuana for personal adult use on a parcel of land within the municipality that is not owned by the person and on which the person is not domiciled.

A person under 21 years of age may not cultivate marijuana.

#### **Section 5. No Authorization for Activities Other Than Home Cultivation**

This ordinance regulates only home cultivation of adult use marijuana. It does not authorize the transfer, sale, manufacture or processing of home cultivated adult use marijuana. Activities beyond home cultivation are subject to all applicable state and local land use and licensing requirements.

#### **Section 6. Home Cultivation Must Comply With State Law.**

All home cultivation must be done in accordance with the cultivation requirements and personal limits established by the Marijuana Legalization Act, 28-B M.R.S. § 1502. This ordinance does not authorize any home cultivation or related activity to be conducted in a manner that is prohibited by the Marijuana Legalization Act or any other applicable state law.

#### **Section 7. Not Applicable to Marijuana Cultivation for Medical Purposes**

This ordinance does not apply to the cultivation of marijuana for medical use by a qualifying patient, a caregiver, a registered caregiver, or a registered dispensary as authorized by the Maine Medical Use of Marijuana Act, unless such qualifying patient, caregiver, registered caregiver, or registered dispensary is also a person engaging in home cultivation for personal adult use.

#### **Section 8. No Local Authorization for Commercial Marijuana Establishments**

This ordinance does not authorize the commercial cultivation, manufacture, sale, or testing of marijuana within the municipality by adult use establishment licensees as provided in 28-B M.R.S. § 402(1)(A), or caregiver retail stores, registered dispensaries, medical manufacturing facilities or testing facilities as provided in 22 M.R.S. § 2429-D(3).

**Section 9. Effective Date; Duration.**

This ordinance is effective immediately upon enactment by the municipal legislative body and shall remain in effect until it is amended or repealed.

**Section 10. Penalties.**

This ordinance shall be enforced by [*choose one*: the municipal officers or their designee/code enforcement officer/police department]. Violations of this ordinance are subject to the enforcement and penalty provisions of 30-A M.R.S. § 4452.