***Be it ordained by the Town of Fryeburg as follows:***

***That Section 5.B of the Land Use Ordinance be amended by revising subsection “26” to read as follows:***

|  |
| --- |
| **26. ADULT USE Cannabis OPERATIONS** |
|  |  | **VR** | **VC** | **OVR** | **RC** | **ORC** | **GC** | **I** | **RR** |
| 26.1 | ~~Marijuana~~ Cannabis Store | N | N | N | N | N | ~~N~~ P | ~~N~~ P | N |
| 26.2 | Cultivation Facility – Tier 1 | N | N | N | P | P | P | P | P |
| 26.3 | Cultivation Facility - Tier 2 | N | N | N | N | N | P | P | P |
| 26.4 | Cultivation Facility – Tier 3 | N | N | N | N | N | P | P | P |
| 26.5 | Cultivation Facility – Tier 4 | N | N | N | N | N | P | P | P |
| 26.6 | Cultivation Facility - Nursery | N | N | N | P | P | P | P | P |
| 26.7 | ~~Marijuana~~ Cannabis Products Manufacturing Facility | N | N | N | N | N | P | P | N |
| 26.8 | ~~Marijuana~~ Cannabis Testing Facility | N | N | N | N | N | P | P | N |
| 26.9 | ~~Marijuana~~ Cannabis Social Club | N | N | N | N | N | N | N | N |
| 26.10 | Home Cultivation for Personal Adult Use | A | A | A | A | A | A | A | A |

***Be it ordained by the Town of Fryeburg as follows:***

**Section 17.Y Adult Use ~~Marijuana~~ Cannabis Operations**

1. Purpose: The purpose of this standard is to regulate the location, licensing and operation of adult use cannabis operations authorized by the ~~Marijuana~~ Cannabis Legalization Act within the Town of Fryeburg under the general authority granted pursuant to and consistent with Article VIII-A of the Maine Constitution and Title 30-A Section 3001 (Home Rule), as from time to time amended.
2. All cannabis operations shall follow and be in compliance with The State of Maine – ~~Marijuana~~ Cannabis Legalization Act Title 28-B, Chapter 1.
3. Application Procedure:
	1. Applications for Land Use Authorization for ~~Marijuana~~ Cannabis Operations must be submitted in accordance with Section 2.D of this Ordinance.
	2. Additionally the applicant must submit the following:
		1. Proof of receipt of license from the State of Maine to provide evidence of compliance with State licensing criteria.
		2. A site plan depicting the shape, size, and location of the lot on which the structure is, or is proposed to be, located, and the shape, size, and location on the lot of the structure or additions, precisely located and noted as to distances and dimensions.
		3. A building plan depicting the interior layout of the structure. Include secured areas, areas open to the public, entrances/exits, hazardous materials storage areas, and all other operational features.
		4. An Operating Plan which demonstrates the proposed size and layout of the cannabis operation; plans for wastewater and waste disposal; plans for providing electricity, water and other utilities necessary for the normal operation of the facility; plans for securing the proposed facility, hours of operation and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan for a cultivation facility must include the proposed size and layout of the cultivation areas, and must depict the total square footage of plant canopy area (or number of plants for Tier 1 cultivation facilities).
		5. For indoor operations, an Odor Mitigation Plan approved and stamped by a Maine licensed engineer.
		6. If applicable, a description of the type of products to be processed and the equipment to be used, including a list of any solvents, ~~gases~~ gasses, chemicals, or other compounds that will be used, kept, or created, and how such materials will be stored.
	3. A separate Application for Land Use Authorization must be submitted for each proposed adult use cannabis facility.
	4. Following receipt of Land Use Authorization the applicant must also obtain a license from the Board of Selectmen as required by the Town of Fryeburg Adult Use ~~Marijuana~~ Cannabis Cultivation, Products Manufacturing, Retail Stores and Testing Ordinance. Land Use Authorization alone will not constitute “municipal authorization” per The State of Maine – ~~Marijuana~~ Cannabis Legalization Act Title 28-B, Section 205.
	5. A Land Use Authorization Revision After Approval: The following shall apply if there are changes to the approved site plan, building plan, or operating plan, or if an increase in cultivation tier is proposed:
		1. If the Code Enforcement Officer determines that the change would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed change by the Planning Board is required.
		2. If the Code Enforcement Officer shall determine that the change would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the change of the plan.
4. General Performance Standards for ~~Marijuana~~ Cannabis Operations: (This Section does not apply to Home Cultivation for Personal Use)
	1. Location, setbacks, and buffers: In addition to the dimensional requirements for each zoning district, retail cannabis operations must also meet the following dimensional requirements.
5. ~~Marijuana~~ Cannabis operations may not be located within 1,000 feet of preexisting schools (public or private), public athletic complexes, libraries, churches, public parks, ~~and~~ licensed day-care centers and special purpose schools whose clientele are under 21 years of age. This measurement is taken from the lines of the property on which the cannabis operation is located.
6. Adult use cannabis operations shall operate from a fixed, permanent location and may not be permitted to be operated from a moveable or mobile location. If an application for an adult use cannabis operation is approved, the approval is for that location only; relocation of the operation would require new Land Use Authorization.
7. Tier 1, Tier 2 and nursery outdoor cultivation operations must be setback 50 feet from all property lines, have secure fencing around the growing area and ~~may~~ must not be visible from the street.
8. Tier 3 and Tier 4 outdoor cultivation operations must be setback 100 feet from all property lines, have secure fencing around the growing area and ~~may~~ must not be visible from the street.
9. Adult use cannabis operations shall not occur in rented housing, apartments, or condominiums.
10. Existing tree and shrub cover screening and buffering the proposed cannabis operation shall be retained to the maximum possible extent. The Board may require additional visual buffering per Section 16.J of this Ordinance.
11. The town will limit the maximum number of cannabis stores to a total of five (5).
12. Applicants may not have an interest or license for more than one adult use cannabis store at a time.

* 1. Odors/Ventilation
1. Indoor cannabis businesses shall be ventilated so that the odor from the cannabis cannot be detected by a person with a normal sense of smell from any adjoining use or property.
2. Indoor cannabis businesses shall have an odor mitigation system installed that has been approved and stamped by a Maine licensed engineer indicating that the system will provide sufficient odor control measures.
	1. Hazardous Substances
		1. Any inherently hazardous substances, hazardous materials, solvents, or flammables must be kept safe, be stored and used in compliance with all applicable laws, and not create a danger to any person.
		2. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.
	2. Refuse/Product Waste Disposal
3. ~~Marijuana~~ Cannabis product waste must be made unusable and unrecognizable prior to leaving the premises and shall be disposed of in accordance with State law, including, to the extent applicable, rules adopted pursuant to Title 28-B.
4. Solid, liquid and hazardous wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.
	1. Lighting
5. Exterior lighting, including required security lighting shall meet the standards of Section 16.G of this ordinance.
6. Interior lighting: Grow lamps and lighting may not be visible from the exterior of the building.
	1. Signage
		1. Exterior signs must be in compliance with the regulations of the Section 16.M of this ordinance, and also shall not advertise cannabis brand names or utilize graphics related to cannabis or paraphernalia on the exterior of the cannabis retail business or the building in which the business is located.
		2. There may be no display of cannabis and paraphernalia so as to be clearly visible from the exterior of a facility.
7. Specific Performance Standards for Cultivation Facilities (This does not apply to Home Cultivation for Personal Use)
	1. A cultivation facility may only cultivate adult use cannabis for sale and distribution to products manufacturing facility, cannabis store, or other cultivation facility. Retail sales at a cultivation facility is prohibited. A cannabis cultivation facility may not give away adult use cannabis to consumers.
	2. Marijuana Cannabis extraction without a separate products manufacturing approval is prohibited.
	3. Adult use cultivation facilities may also include cultivation of medical cannabis under the Maine Medical Use of ~~Marijuana~~ Cannabis Act and in compliance with The State of Maine – ~~Marijuana~~ Cannabis Legalization Act. This must be disclosed to the Town during the Land Use Authorization process.
	4. The building design of structures housing cultivation facilities, including greenhouses, in the Rural Residential zoning district must be approved by the Planning Board. The structure shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties. If the structure is visible from a street then New England style architecture is encouraged. Industrial or warehouse designs should be avoided.
	5. There may be no increases to Tier 4 cultivation facilities.
	6. Nursery Cultivation Facility:
		1. A nursery cultivation facility may not sell or distribute mature cannabis plants. Direct sales to consumers must be in compliance with The State of Maine – ~~Marijuana~~ Cannabis Legalization Act.
		2. A nursery is limited to not more than 1,000 square feet of plant canopy.
8. Specific Performance Standards for ~~Marijuana~~ Cannabis Products Manufacturing Facilities (This does not apply to Home Cultivation for Personal Use)
	1. A cannabis products manufacturing facility may only manufacture adult use cannabis for sale and distribution to cannabis stores, social clubs or other manufacturing facilities. Retail sales at a cannabis products manufacturing facility is prohibited. A cannabis products manufacturing facility may not give away adult use cannabis products or cannabis to consumers.
	2. ~~Marijuana~~ Cannabis cultivation without separate approval for a cannabis cultivation facility is prohibited.
	3. ~~Marijuana~~ Cannabis products manufacturing facilities may also include manufacture of medical cannabis products under the Maine Medical Use of ~~Marijuana~~ Cannabis Act and in compliance with The State of Maine – ~~Marijuana~~ Cannabis Legalization Act. This must be disclosed to the Town during the Land Use Authorization process.
	4. ~~Marijuana~~ Cannabis extraction must be completed in a safe manner and in compliance with ~~Marijuana~~ Cannabis Legalization Act.
9. Home Cultivation for Personal Use:
10. All home cultivation for personal use shall be in compliance with The State of Maine – ~~Marijuana~~ Cannabis Legalization Act and subsequent amendments.
11. Planning Board Review:

The Planning Board will review this Section and the State of Maine – ~~Marijuana Cannabis~~ Cannabis Legalization Act ~~every 3 years after adoption by the Town~~ as necessary, and prepare any amendments it deems appropriate for presentation to the Town of Fryeburg at the next annual Town meeting.

1. Indemnity:

By applying for or accepting a permit issued pursuant to this ordinance, all applicants for adult use cannabis operations, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of an adult use cannabis operation that is the subject of this approval. Furthermore, by accepting a permit issued pursuant to this ordinance, all adult use cannabis operators, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool against all liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney’s fees reasonably incurred by that party in defense of such liabilities, claims and demands.

**SECTION 25****DEFINITIONS AND WORD USAGE**

B. Definitions

**Adult Use Cannabis:** Recreational, non-medical use cannabis cultivated, distributed or sold by a cannabis establishment.

**Adult Use Cannabis Cultivation Facility:** A facility that cultivates, prepares and packages adult use cannabis and sells adult use cannabis to products manufacturing facilities, cannabis stores and to other cultivation facilities.

**Adult Use Cannabis Licensee:** A person permitted pursuant to this Ordinance to establish and operate an adult use cannabis operation.

**Adult Use Cannabis Operation:** A cultivation facility, a products manufacturing facility, a testing facility, a cannabis store or a cannabis social club.

**Adult Use Cannabis Product:** A recreational, non-medical use cannabis product that is manufactured, distributed or sold by a cannabis establishment

**Adult Use Cannabis Products Manufacturing Facility:** A facility that purchases adult use cannabis from a cultivation facility; manufactures, labels and packages adult use cannabis products; sells adult use cannabis products to cannabis stores, cannabis social clubs and to other products manufacturing facilities.

**Adult Use Cannabis Store:** A facility that purchases adult use cannabis from a cultivation facility, purchases adult use cannabis products from a products manufacturing facility and sells adult use cannabis and adult use cannabis products to consumers.

**Agriculture:** Any public or private use of land or structures for propagation, production, management, maintenance, harvesting, processing and/or sale of produce and/or animals, including but not limited to farming, and livestock husbandry, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, fruits and vegetables, Christmas trees, nursery stock and ornamental and green house products; but specifically excluding the operation of a commercial slaughterhouse or other commercial processing of animal by-products. Agriculture does not include forest management and timber harvesting activities or medical cannabis or adult use cannabis cultivation.

**Caregiver:**  A person or an assistant of that person that provides care for a qualifying patient in accordance with Maine Medical Use of Cannabis Act.

**Commercial Greenhouse:** A building or group of buildings, whose sides and/or roof are made largely of glass or other sunlight transmitting material, used to grow plants and/or produce for sale (except for adult use or medical use cannabis).

**Edible Cannabis product:**  A cannabis product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested cannabis.

**Flowering Cannabis:** With respect to a cannabis plant, the gametophytic or reproductive state of a cannabis plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of cannabis.

**Immature Cannabis Plant:** A cannabis plant that is not flowering and that is not a mature cannabis plant, or a seedling.

**Licensee (Cannabis):** A person permitted pursuant to this Ordinance to establish and operate an adult use cannabis operation.

**Limited Access Area (Cannabis):** A building, room or other area within an approved cannabis operation where a licensee is authorized to cultivate, store, weigh, manufacture, package or sell adult use/medical use cannabis and adult use/medical use cannabis products in accordance with this Ordinance.

**Manufacturing or manufacture (Cannabis):** The production, blending, infusing, compounding or other preparation of cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis. “Manufacturing or manufacture” does not include cultivation.

**Cannabis:** The leaves, stems, flowers and seeds of a cannabis plant, whether growing or not. “cannabis” does not include industrial hemp, as defined inTitle 28-B, or a cannabis product.

**Cannabis Cultivation or cultivate:** The planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of cannabis for use or sale. “Cultivation or cultivate” does not including manufacturing.

**Cannabis Cultivation area:** 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.

**Cannabis Extraction:** The process of extracting cannabis concentrate from cannabis using water, lipids, gases or solvents or other chemicals or chemical processes.

**Cannabis Operation:** A cultivation facility, a products manufacturing facility, a testing facility, a cannabis store or a cannabis social club.

**Cannabis Plant:**  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.

**Cannabis Product:** Cannabis concentrate or a product composed of cannabis or cannabis concentrate and other ingredients that is intended for use or consumption. “cannabis product” includes, but is not limited to, an edible cannabis product, a cannabis ointment and a cannabis tincture.

**Cannabis Social Club:** A facility that purchases adult use cannabis products from a products manufacturing facility sells adult use cannabis products to consumers for consumption on the premises of the cannabis social club.

**Cannabis Store:** A facility that purchases adult use cannabis from a cultivation facility, purchases adult use cannabis products from a products manufacturing facility and sells adult use cannabis and adult use cannabis products to consumers.

**Cannabis Testing Facility:** A facility that develops, researches and tests cannabis, cannabis products and other substances.

**Mature Cannabis Plant:** A cannabis plant that is flowering or that is of a size: Greater than 12 inches in height; or greater than 12 inches in width.

**Medical Use (Cannabis):**  The acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of cannabis or paraphernalia relating to the administration of cannabis 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.

**Medical Use Cannabis Cardholder:**  A person who has been issued and possesses a valid registry identification card.

**Medical Use Cannabis Licensee:** A person permitted pursuant to this Ordinance to establish and operate a medical use cannabis operation

**Medical Use Cannabis Operation:** A registered caregiver retail cannabis store, cultivation facility, dispensary, testing facility, products manufacturing facility, or qualifying patient cultivation/products manufacturing.

**Medical Use Cannabis Product:** A product composed of harvested cannabis and other ingredients that is intended for medical use. "cannabis product" includes, but is not limited to, an edible Cannabis product, a cannabis ointment and a cannabis tincture. "cannabis product" does not include cannabis concentrate.

**Medical Use Cannabis Products Manufacturing Facility:** A facility that manufactures, labels and packages medical use cannabis products.

**Medical Use Cannabis Registered dispensary:**  An entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.

**Mother plant (Cannabis):** A mature cannabis plant that is used solely for the taking of seedling cuttings.

**Nursery Cultivation Facility (Cannabis)**: A facility that cultivates immature cannabis plants, seedlings, and cannabis seeds only for sale and distribution to cannabis stores, other cultivation facilities, and to consumers.

**Plant canopy (Cannabis):** The area within a cultivation facility that is dedicated to the live cultivation of cannabis plants, including, but not limited to, the growth and maintenance of mother plants, the propagation of cannabis plants from seed to plant tissue, the cloning of cannabis plants and the maintenance of a vegetative or flowering area for cannabis plants. "Plant canopy" does not include the area within the premises of a cultivation facility that is not dedicated to the live cultivation of cannabis plants, including, but not limited to, areas for the storage of fertilizers, pesticides or other products; quarantine areas; general office space, work areas and walkways.

**Propagation (Cannabis):** The process of reproducing cannabis plants through the use of seeds, cuttings or grafting.

**Qualifying patient:**  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 cannabis in accordance with the Maine Medical Use of Cannabis Act.

**Registration Certificate (Cannabis):**  A document issued by the State that identifies an entity as an entity that has registered with the State in accordance with this the Maine Medical Use of Cannabis Act.

**Registered Caregiver:**  A caregiver who is registered by the state pursuant to the Maine Medical Use of cannabis Act.

**Registered Caregiver Cultivation Facility:** A facility that cultivates, prepares and packages medical use Cannabis and which may directly transfer the medical use cannabis to qualifying patients, but not via a registered caregiver retail store.

**Registered Caregiver Retail Cannabis Store:** A facility that offers for sale, to registered qualifying patients, medical use cannabis.

**Registered Patient:**  A qualifying patient who is registered by the State pursuant to the Maine Medical Use of Cannabis Act.

**Registry Identification Card:** A document issued by the State that identifies a person as a person who has registered with the State in accordance with the Maine Medical Use of Cannabis Act.

**Seedling (Cannabis):** A cannabis plant that is: Not flowering; less than 6 inches in height; and less than 6 inches in width.

**Testing or test (Cannabis):** The research and analysis of cannabis, cannabis products or other substances for contaminants, safety or potency. “Testing or test” does not include cultivation or manufacturing.

**Testing Facility (Cannabis):** A facility that develops, researches and tests cannabis, cannabis products and other substances.

**Threshold Height** - shall mean the height, as defined above, below which a telecommunications facility does not need review and approval as a special exception, unless otherwise noted herein.

**Tier 1 Adult Use Cannabis Cultivation Facility:** A facility that may cultivate not more than 30 mature cannabis plants and an unlimited number of immature cannabis plants and seedlings; or has not more than 500 square feet of plant canopy.

**Tier 2 Adult Use Cannabis Cultivation Facility:** A facility that may cultivate not more than 3,000 square feet of plant canopy.

**Tier 3 Adult Use Cannabis Cultivation Facility:** A facility that may cultivate not more than 10,000 square feet of plant canopy.

**Tier 4 Adult Use Cannabis Cultivation Facility:** A facility that may cultivate not more than 30,000 square feet of plant canopy.

**Written Certification (Cannabis):**  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 cannabis to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.