

**CITY OF BELFAST CITY COUNCIL
TUESDAY, DECEMBER 21, 2021 7:00 pm**

PROPOSED ORDINANCE AMENDMENTS

**AMENDMENTS TO CHAPTER 82 SHORELAND AND CHAPTER 102 ZONING
REGARDING THE REGULATION OF ADULT USE MARIJUANA FACILITIES**

1) Background Information and Explanation of Proposed Amendments

The Belfast Planning Board conducted five meetings between September 1 and November 17, 2021, of which they held a public hearing on October 27, 2021. The Board received one comment from Origins, the developer who proposes to locate a Tier 4 cultivation facility in the old Moss Tent building. The Board is now recommending these amendments to the Council for consideration and adoption.

The Board is recommending three themes to the proposed amendments. Allow small scale cultivation, less than 2,000 sq ft of mature plant canopy, in the rural zoning districts, large scale, up to 20000 sq ft., in Route 1 South and Searsport Ave. Commercial and no adult use marijuana activities inside the bypass. The Board also recommends following the 500 foot setback from schools and daycares for all adult use marijuana activities as required in The Marijuana Legalization Act.

The City Council, at the meeting of December 7, 2021, held the first reading on the proposed ordinance amendments for the identified adult use marijuana facilities.

2) How to Offer Public Comment to the City Council on the Proposed Amendments.

The public may offer comment during the public hearing period on December 21, 2021 for ordinance amendments allowing the use of cultivation, testing, and manufacturing of adult use marijuana in one of three ways

- You can watch the meeting on BelTV or live stream the meeting on the City’s website www.cityofbelfast.org and offer live comment to the Council on Zoom.
- You can submit comment in writing to: Jon Boynton, Planning and Codes, City of Belfast, 131 Church St. Belfast, ME 04915.
- You can submit comment via email to: public@cityofbelfast.org

All comment that is provided in writing or via email will be provided to the Council at or before the respective hearing. If you choose to submit comment in writing via email, we ask that you do so by 3:00 pm on the date of the hearing. The City Council gives equal consideration to all forms of comment that are offered.

Questions regarding the proposed Ordinance amendments should be directed to Jon Boynton, City Planner, Planning and Code at 338-3370 x 125 or at cityplanner@cityofbelfast.org.

3) Format of Amendments.

All text shown in black font is current text in the adopted City Code of Ordinances, Chapter 82 Shoreland and Chapter 102, Zoning. **All text shown in red font** is new language that is proposed to be added. Edits to the proposed ordinance made by the City Council are **underlined in red**. **All text shown in green font** is advisory/informational only and is not part of the formal Ordinance language.

CHAPTER 82, SHORELAND

ARTICLE I, IN GENERAL

Sec, 82-1 Definitions.

The following words terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. The definition of other words, terms and phrases used in this chapter shall have the meanings to used in this Chapter shall have the meanings ascribed to them in the City Code of Ordinances, Chapter 66, General Provisions, except where the context clearly indicates a different meaning. In addition, specific terms that apply to certain specific uses that can occur in Chapter 82, Shoreland, can be found in the following Divisions of Chapter 102, Zoning, Article VIII, Supplementary District Regulations: Division 5, Telecommunication Facilities, Division 7, Significant Groundwater Wells, and Division 8, Medical Marijuana Regulations, **Division 10 Adult Use Marijuana Regulations.**

ARTICLE IV, DISTRICTS

Sec. 82-135 Table of Land Uses

TABLE 1. LAND USES IN THE SHORELAND ZONE

Districts

Land Use	SP	SD	RP	LR	UR	GDI	WD	MHC
(48) Marijuana Cultivation: Tier 1	No	No	No	No	No	No	No	No
(49) Marijuana Cultivation Tier 2	No	No	No	No	No	No	No	No
(50) Marijuana Cultivation: Tier 3	No	No	No	No	No	No	No	No
(51) Marijuana Cultivation: Tier 4	No	No	No	No	No	No	No	No
(52) Marijuana Cultivation: Nursery	No	No	No	No	No	No	No	No
(53) Marijuana Testing Facility	No	No	No	No	No	No	No	No
(54) Marijuana Manufacturing Facility	No	No	No	No	No	No	No	No
(55) Marijuana Retail Store (Adult Use)	No	No	No	No	No	No	No	No

ARTICLE V, LAND USE STANDARDS

DIVISION 20: Adult Use Marijuana Facilities .

Adult use marijuana cultivation (nursery and tiers 1-4), adult use manufacturing facilities, and adult use testing facilities that are permitted in a Shoreland District, reference, Sec. 82-135, Table of Uses, shall comply with all applicable requirements of Chapter 82, Shoreland, and shall comply with requirements identified in Chapter 102 Zoning, Article VIII, Supplementary District Regulations, Division 10, Adult Use Marijuana Regulations.

CHAPTER 102, ZONING

ARTICLE I, IN GENERAL

Sec. 102-1 Definitions

The definitions and words and terms used in this Chapter shall be as set forth in Chapter 66, General Provisions, Section 66-1. Several Divisions in Article VIII, Supplementary District Regulations also identify specific definitions that are applicable to that Division, including the following:

ARTICLE V, DISTRICT REGULATIONS

DIVISION 2. General Purpose “A” District

Sec. 102-321. Permitted uses requiring CEO Review

(13) Adult Use Cultivation Facility Tier 1

Sec. 102-322. Permitted uses requiring Planning Board Review

(30) Adult Use Cultivation Facility Tier 2

(31) Adult Use Cultivation Facility Nursery

(32) Adult Use Testing Facilities

(33) Adult Use Manufacturing Facilities

DIVISION 3 GENERAL PURPOSE “B” DISTRICT

102-341. Permitted uses requiring CEO review.

(13) Adult Use Cultivation Facility Tier 1

Sec. 102-342. Permitted uses requiring Planning Board review.

(30) Adult Use Cultivation Facility Tier 2

(31) Adult Use Cultivation Facility Nursery

(32) Adult Use Testing Facilities

(33) Adult Use Manufacturing Facilities

Division 4. Residential/Agricultural 1 District.

Sec. 102-361. Permitted uses requiring CEO review.

(13) Adult Use Cultivation Facility Tier 1

Sec. 102-362. Permitted uses requiring Planning Board review.

(30) Adult Use Cultivation Facility Tier 2

(31) Adult Use Cultivation Facility Nursery

(32) Adult Use Testing Facilities

(33) Adult Use Manufacturing Facilities

DIVISION 5. RESIDENTIAL/AGRICULTURAL II DISTRICT.

Sec. 102-381. Permitted uses requiring CEO Review

(13) Adult Use Cultivation Facility Tier 1

Sec. 102-382. Permitted uses requiring Planning Board review.

(30) Adult Use Cultivation Facility Tier 2

(31) Adult Use Cultivation Facility Nursery

(32) Adult Use Testing Facilities

(33) Adult Use Manufacturing Facilities

DIVISION 13. Searsport Avenue Waterfront District.

Sec. 102-561. Permitted uses requiring CEO review.

(20) Adult Use Cultivation Facility Tier 1

Sec. 102-562. Permitted uses requiring Planning Board review.

(30) Adult Use Cultivation Facility Tier 2

(31) Adult Use Cultivation Facility Nursery

(32) Adult Use Testing Facilities

(33) Adult Use Manufacturing Facilities

DIVISION 15. Business Park - Airport District.

Sec. 102-601. Permitted uses requiring CEO review

(30) Adult Use Cultivation Facility Tier 1

Sec. 102-602. Permitted uses requiring Planning Board review.

(5) Adult Use Cultivation Facility Tier 2

(6) Adult Use Cultivation Facility Nursery

(7) Adult Use Testing Facilities

(8) Adult Use Manufacturing Facilities

DIVISION 20. Protection Rural District.

Sec. 102-601. Permitted uses requiring CEO review.

(15) Adult Use Cultivation Facility Tier 1

Sec. 102-602. Permitted uses requiring Planning Board review.

(30) Adult Use Cultivation Facility Tier 2

(31) Adult Use Cultivation Facility Nursery

(32) Adult Use Testing Facilities

(33) Adult Use Manufacturing Facilities

DIVISION 21. Airport Growth District.

Sec. 102-721. Permitted uses requiring CEO review.

(13) Adult Use Cultivation Facility Tier 1

Sec. 102-722. Permitted uses requiring Planning Board review.

- (30) Adult Use Cultivation Facility Tier 2
- (31) Adult Use Cultivation Facility Nursery
- (32) Adult Use Testing Facilities
- (33) Adult Use Manufacturing Facilities

DIVISION 22. Residential Growth District.

Sec. 102-741. Permitted uses requiring CEO review.

- (20) Adult Use Cultivation Facility Tier 1

Sec. 102-742. Permitted uses requiring Planning Board review.

- (30) Adult Use Cultivation Facility Tier 2
- (31) Adult Use Cultivation Facility Nursery
- (32) Adult Use Testing Facilities
- (33) Adult Use Manufacturing Facilities

DIVISION 24. Route 3 Commercial District.

Sec. 102-767. Permitted uses requiring CEO review.

- (15) Adult Use Cultivation Facility Tier 1

Sec. 102-768. Permitted uses requiring Planning Board review.

- (35) Adult Use Cultivation Facility Tier 2
- (36) Adult Use Cultivation Facility Nursery
- (37) Adult Use Testing Facilities
- (38) Adult Use Manufacturing Facilities

DIVISION 25. Office Park District.

Sec. 102-773. Permitted uses requiring CEO review.

- (20) Adult Use Cultivation Facility Tier 1

Sec. 102-774. Permitted uses requiring Planning Board review.

- (30) Adult Use Cultivation Facility Tier 2
- (31) Adult Use Cultivation Facility Nursery
- (32) Adult Use Testing Facilities
- (33) Adult Use Manufacturing Facilities

DIVISION 26. Route 141 and Mill Lane Commercial District.

Sec. 102-780. Permitted uses requiring CEO review.

(20) Adult Use Cultivation Facility Tier 1

Sec. 102-781. Permitted uses requiring Planning Board review.

(38) Adult Use Cultivation Facility Tier 2

(39) Adult Use Cultivation Facility Nursery

(40) Adult Use Testing Facilities

(41) Adult Use Manufacturing Facilities

DIVISION 27. Route 137 Commercial District.

Sec. 102-786. Permitted uses requiring CEO review.

(20) Adult Use Cultivation Facility Tier 1

Sec. 102-787. Permitted uses requiring Planning Board review.

(35) Adult Use Cultivation Facility Tier 2

(36) Adult Use Cultivation Facility Nursery

(37) Adult Use Testing Facilities

(38) Adult Use Manufacturing Facilities

DIVISION 28. Route One South Commercial

Sec. 102-791. Permitted uses requiring CEO review.

(20) Adult Use Cultivation Facility Tier 1

Sec. 102-792. Permitted uses requiring Planning Board review.

(35) Adult Use Cultivation Facility Tier 2

(36) Adult Use Cultivation Facility Nursery

(37) Adult Use Cultivation Facility Tier 3

(38) Adult Use Cultivation Facility Tier 4

(39) Adult Use Testing Facilities

(40) Adult Use Manufacturing facilities

DIVISION 29. Searsport Avenue Commercial District.

Sec. 102-796. Permitted uses requiring CEO review.

(20) Adult Use Cultivation Facility Tier 1

Sec. 102-797. Permitted uses requiring Planning Board review.

(40) Adult Use Cultivation Facility Tier 2

(41) Adult Use Cultivation Facility Nursery

(42) Adult Use Cultivation Facility Tier 3

(43) Adult Use Cultivation Facility Tier 4

(44) Adult Use Testing Facilities

(45) Adult Use Manufacturing facilities

**ARTICLE VIII. SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 10, ADULT USE MARIJUANA REGULATIONS**

Sec. 102-1200. Purpose and Applicability.

The State Legislature, through the adoption of PL 2017, c. 409, Pt. A, §6 (NEW). The Marijuana Legalization Act. This act, requires Municipalities to “opt in” or vote to allow certain activities and facilities associated with adult use marijuana if the municipality wants to allow such activities to operate in the municipality. The City has decided that adult use marijuana cultivation facilities, adult use marijuana manufacturing facilities and adult use marijuana testing facilities, are appropriate activities in Belfast, provided the respective activity/use occurs in a zoning district in which the City has specifically identified the respective activity/use as a permitted use, and provided that the respective use/activity complies with the standards identified in this Division and all requirements adopted by the State of Maine. The definitions and standards identified in this Division are intended to guide how the City will regulate the above identified uses that are associated with adult use marijuana.

Sec. 102-1201. Definitions.

The definitions identified in this Section are intended to assist in the implementation of the requirements of this Division. These definitions shall apply to activities/uses that are identified as permitted uses in certain Districts of Chapter 82, Shoreland, Article IV, Districts, and Chapter 102, Zoning, Article V, District Regulations, and are intended to supplement the definitions adopted for the City Code of Ordinances, both Chapter 66, General Provisions, and Chapter 82, Shoreland, Article I, In General. Terms specifically related to the regulation and use of adult use marijuana that are not defined in this Section shall be the same as said terms are defined by the State in “The Marijuana Legalization Act” PL 2017, c. 409, Pt. A, §6 (NEW).

1. **Adult use marijuana.** “Adult use marijuana” means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.
2. **Recreational marijuana.** “Recreational marijuana” means adult use marijuana. Recreational marijuana and adult use marijuana can be used interchangeably.
3. **Adult use marijuana product.** “Adult use marijuana product” means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.
4. **Cultivation or cultivate.** “Cultivation” or “Cultivate” means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. “Cultivation” or “Cultivate” does not include manufacturing, testing or marijuana extraction.
5. **Cultivation Facility.** “Cultivation facility” means a facility licensed under this chapter to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

- 6. Immature marijuana plant.** “Immature marijuana plant” means a marijuana plant that is not a mature marijuana plant or a seedling. “Immature marijuana plant” does not include hemp as identified by the State in PL2019 c. 528.
- 7. Inherently hazardous substance.** “Inherently hazardous substance” means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane, and diethyl ether. “Inherently hazardous substance” does not include any form of alcohol, or ethanol. PL 2017, c. 409, Pt. A, §6 (NEW).
- 8. Manufacturing or manufacture.** “Manufacturing” or “manufacture” means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. “Manufacturing” or “manufacture” does not include cultivation or testing.
- 9. Marijuana Store.** “Marijuana store” means a facility licensed by the State to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.
- 10. Marijuana Establishment.** Marijuana establishment means a cultivation, a products manufacturing facility, a testing facility, and a marijuana store.
- 11. Mature Marijuana Plant.** “Mature marijuana plant” means a marijuana plant that is flowering.
- 12. Plant Canopy.** “Plant canopy” as identified in PL 2017, c. 409, Pt. A, §6 (NEW). ‘The Marijuana Legalization Act’, as may be amended from time to time, means the total surface area within a licensed premises of a cultivation facility that is authorized by the State for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant may not include areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature m marijuana plants.
- 13. Testing Facility.** “Testing facility” means a facility licensed to develop, research and test marijuana, marijuana products and other substances.
- 14. Cultivation Facility Tier 1.** A tier 1 cultivation facility allows for the cultivation of not more than 30 mature marijuana plants, or not more than 500 square feet of plant canopy.
- 15. Cultivation Facility Tier 2.** A tier 2 cultivation facility allows for the cultivation of not more than 2,000 square feet of plant canopy.
- 16. Cultivation Facility Tier 3.** A tier 3 cultivation facility allows for the cultivation of not more than 7,000 square feet of plant canopy.

17. Cultivation Facility Tier 4. A tier 4 cultivation facility allows for the cultivation of not more than 20,000 square feet of plant canopy.

18. Cultivation Facility Nursery. A nursery cultivation facility allows for the cultivation of not more than 1,000 square feet of plant canopy.

Sec. 102-1202, Standards for Adult Use Marijuana Establishments.

a) Permitted Use.

- 1) A permit application to operate an adult use Cultivation facility, testing facility, or manufacturing facility shall only be considered by the City if the requested use is specifically identified as a permitted use in Chapter 102, Zoning, Article V, District Regulations, and if applicable, Chapter 82, Shoreland, Article IV, Districts. Said uses shall be considered prohibited use in all other Zoning and Shoreland Zoning Districts.
- 2) An Adult Use Marijuana Retail Store shall be prohibited use in all Zoning and Shoreland Districts.

b) Setbacks from Public and Private Schools.

1) Pursuant PL 2017, c. 409, Pt. A, §6 (NEW), ‘The Marijuana Legalization Act’, as may be amended by the State from time to time, and as such provisions are permitted to be amended by a municipality, the City requires that any adult use marijuana establishment and all signage and advertising shall be located not less than 500 feet from the property line of a preexisting public or private school. A preexisting school is one that was in operation on the date that the Belfast Planning Board conducted its first public hearing associated with an initial Use Permit application for adult use marijuana establishments. The City shall use standards adopted by the State Department of Administrative and Financial Services to determine how to apply this setback requirement. If the State Department of Administrative and Financial Services has not adopted standards at the time that an adult use marijuana establishment submits an application, the City shall consider the premises owned or leased by the school as the boundaries of the school property.

c) Advertising and Signage

The location, type and size of sign that a marijuana establishment use may erect on a property or building shall comply with requirements identified in City Code of Ordinances, Chapter 86, Signs, and shall comply with State requirements identified in PL 2017, c. 409, Pt. A, §6 (NEW). ‘The Marijuana Legalization Act’, All signage and advertising also shall comply with the setback requirements identified in Sec. 102-1202, b); this City adopted setback requirement shall supersede any greater setback requirement that may be identified in State law or regulations. With the exception of the setback requirement identified in Sec. 102-1202 b), if the requirements of the State law are more restrictive regarding signage than City requirements identified in Chapter 86, Signs, the requirements of State law shall prevail.

d) Compliance with other City Ordinances

A request for a permit to establish an adult use cultivation facility, an adult use testing facility and an adult use manufacturing facility shall comply with all permit standards identified in the City Code of Ordinances that would apply to any application to establish a cultivation, manufacturing or testing use that would be located in the same respective zoning district.

e) Compliance with State Requirements

A request for a permit to establish a marijuana establishment shall provide evidence to the City that they have obtained or can obtain any and all required licenses, permits or similar approvals from the State of Maine, as such may be required by provisions of PL 2017, c. 409, Pt. A, §6 (NEW). 'The Marijuana Legalization Act', as such may be amended from time to time. An applicant must provide specific evidence to the City that all required State licenses, permits and similar approvals have been obtained prior to issuance of an occupancy permit.

Once a Use Permit is granted by the Planning Board, the applicant/owner must remain in compliance with PL 2017, c. 409, Pt. A, §6 (NEW). 'The Marijuana Legalization Act' and all licenses issued by the Maine Office of Marijuana Policy. If the applicant/owner does not abide by any section of 'The Marijuana Legalization Act' then the Code Enforcement Officer shall enforce any sections that are violated.

Sec. 102-1203. Permit Fees.

The fee for a permit application to establish an adult use cultivation facility, an adult use manufacturing facility or an adult use testing facility shall be the same as the City fee for a Use Permit, Site Plan Permit, Shoreland Permit or similar permit. The City shall not assess any special or atypical fees for Planning Board consideration of a permit for any of the above uses.