

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY  
**MAINE LAND USE PLANNING COMMISSION**

**Citizen Petition to Prohibit Certain Marijuana Uses  
in the D-GN2 Subdistrict**

*May 11, 2021 – Draft*

The following amendments propose changes to Chapter 10, Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission. This document only includes relevant sections of Chapter 10 and indicates additions in underline, deletions with a ~~strikethrough~~.

**Option 1:**

The following proposed revisions represent the “Citizens’ Petition.”

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**10.21 DEVELOPMENT SUBDISTRICTS**

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Pursuant to 12 M.R.S. §685-A and consistent with the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

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**D. COMMUNITY CENTER DEVELOPMENT SUBDISTRICT (D-GN2)**

...

**3. Land Uses**

...

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.21,D,3,g, h, ~~and i, and k~~ below:

...

- (4) Commercial: Except as provided in Section 10.21,D,3,k, cCommercial facilities having not more than 4,000 square feet of gross floor area, or as provided in Section 10.21,D,3,i that are compatible with residential uses including:

...

**k. Certain Marijuana Facilities Prohibited**

The following medical marijuana and adult use marijuana facilities and uses are prohibited in any D-GN2 subdistrict:

- (1) Adult use marijuana cultivation facilities, products manufacturing facilities, marijuana stores, and marijuana testing facilities, as those terms are defined in 28-B M.R.S. § 102;
- (2) Medical marijuana caregiver retail stores, including any buildings or facilities operated by a registered caregiver that are used to sell medical marijuana to qualifying patients and that have attributes generally associated with retail stores such as a fixed location, a sign, regular business hours, accessibility to the public, and sales of goods or services directly to a consumer;

Proposed Rule Revisions: Citizen Petition  
to Prohibit Certain Marijuana Uses in the D-GN2 Subdistrict

- (3) Medical marijuana extraction operations using inherently hazardous substances, including registered tier 1 or tier 2 medical marijuana manufacturing facilities, as defined in 22 M.R.S. § 2422;
- (4) Medical marijuana testing facilities that are regulated pursuant to 22 M.R.S. § 2423-A(10);
- (5) Medical marijuana registered dispensaries that are regulated pursuant to 22 M.R.S. § 2428;
- (6) Any other commercial or noncommercial marijuana facilities and uses, other than (i) home cultivation of marijuana for personal use pursuant to 28-B M.R.S. § 1502; (ii) medical marijuana home cultivation by a qualifying patient or exempt caregiver; or (iii) home-based medical marijuana businesses operated by a registered caregiver who sells or dispenses marijuana pursuant to 22 M.R.S. § 2423-A solely out of the caregiver's residential dwelling, does not process or manufacture marijuana using chemicals or solvents, and is not a medical marijuana caregiver retail store as described in Section 10.21,D,4,k,(2), above; and
- (7) Medical marijuana cultivation associated with any facilities and uses prohibited by this Section 10.21,D,3,k.

Nothing in this Section 10.21,D,3,k is intended to or shall be construed to grant local authorization pursuant to 28-B M.R.S. § 403 to operate adult use marijuana establishments.

## Option 2:

The following proposed revisions represent alternative text offered by the Maine Land Use Planning Commission staff. This alternative text must not be viewed as support of, nor opposition to, the outcomes proposed by the Citizens' Petition; rather, this alternative approach is intended as clearer alternative approach that would have the same outcomes as proposed by the petition.

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## 10.21 DEVELOPMENT SUBDISTRICTS

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Pursuant to 12 M.R.S. §685-A and consistent with the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

...

### D. COMMUNITY CENTER DEVELOPMENT SUBDISTRICT (D-GN2)

...

#### 3. Land Uses

The provisions of the D-GN2 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

##### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-GN2 subdistricts:

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##### b. Uses Allowed Without a Permit Subject to Standards

The following uses are allowed without a permit from the Commission within D-GN2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III, and subject to the applicable requirements of Section 10.21,D,3,k:

...

##### c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.21,D,3,g, h, ~~and i~~, and k below:

...

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III and Section 10.21,D,3,k, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

...

**k. Certain Marijuana Facilities and Uses Prohibited**

All medical marijuana and adult use marijuana development and activities involving cultivation, extraction, processing, manufacturing, testing, or sale, within or part of any land use regulated by Section 10.21,D, are prohibited within D-GN2 subdistricts, except:

- (1) licensed caregivers who sell or dispense marijuana pursuant to 22 M.R.S. § 2423-A solely out of the caregiver's primary residence on an incidental or by appointment basis only and does not involve regular business hours, provided such operation does not involve the processing or manufacturing of marijuana using chemicals or solvents, and does not involve signage;
- (2) the provision or dispensing of medical marijuana by a licensed or exempt caregiver as part of any hospice or long-term care facility, health care facility, or nursing home; and
- (3) all uses, protections, or privileges of 22 M.R.S. or 28-B M.R.S., including but not limited to home cultivation of marijuana for personal use; and medical marijuana home cultivation by a qualifying patient or exempt caregiver.