

South Portland City Council  
***Position Paper of the City Manager***

***Subject:***

**ORDINANCE #8-17/18 - Amending Chapter 27, "Zoning," of the Code of Ordinances to establish land use regulations regarding Retail Marijuana Establishments. Passage requires majority vote.**

***Position:***

Following guidance provided to staff at the August 14, 2017 and September 25, 2017 City Council workshops, staff is bringing forward revised ordinance language for Council action regarding the regulation of marijuana establishments.

These proposed Zoning Ordinance amendments prohibit social clubs (for now) and do not address the home occupation marijuana cultivation use (for now). These amendments rely somewhat (*e.g.*, for statutory citations and definitions) on the draft bill recently released by the Marijuana Legalization Implementation Committee that is currently under consideration by the Maine Legislature. There will most certainly need to be changes made to the Zoning Ordinance once the Legislature finalizes its action on the bill and related State regulations are adopted. At second reading on these amendments, a companion order will be presented to the Council for action that puts in place a six-month internal review process related to these amendments.

Assistant City Manager Josh Reny, Planning Director Tex Haeuser, City Clerk Emily Scully, and Corporation Counsel Sally Daggett will be present at your October 2nd meeting.

***Requested Action:***

Council passage of first reading; referral of the ordinance to the Planning Board so it can conduct its public hearing; and set November 6, 2017 as the date for the City Council's public hearing and action on the ordinance.

  
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City Manager



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH  
Mayor

DON H. GERRISH  
Interim City Manager

EMILY F. SCULLY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

IN CITY COUNCIL

ORDINANCE #8-17/18

THE COUNCIL of the City of South Portland hereby ordains that Chapter 27, "Zoning," of the "Code of Ordinances of the City of South Portland, Maine," be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

CHAPTER 27

ZONING

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ARTICLE II. Definitions

Sec. 27-201. Definitions.

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Adult use marijuana. "Adult use marijuana" as that term is defined in 28-B M.R.S.A. § 102(1), as may be amended.

Adult use marijuana product. "Adult use marijuana product" as that term is defined in 28-B M.R.S.A. § 102(2), as may be amended.

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Controlled Environment Agriculture. Commercial food production, wholly contained within a greenhouse or building, using computer managed control technologies to optimize growing systems. For purposes of the South Portland Code of Ordinances, controlled environment agriculture (CEA) includes aquaculture as well as such other techniques as hydroponics. CEA does not include marijuana cultivation, but a CEA facility can also include marijuana cultivation if the zoning district in which the facility is located allows marijuana cultivation and all relevant standards and requirements are met.

District One  
CLAUDE V. Z. MORGAN

District Two  
PATRICIA A. SMITH

District Three  
EBEN C. ROSE

District Four  
LINDA C. COHEN

District Five  
BRAD FOX

At Large  
MAXINE R. BEECHER

At Large  
SUSAN J. HENDERSON

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Marijuana. “Marijuana” as that term is defined in 28-B M.R.S.A. § 102(27), as may be amended.

Marijuana cultivation facility. A “cultivation facility” as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended. A marijuana cultivation facility is an entity licensed to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to marijuana establishments. A marijuana cultivation facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Marijuana establishment. A “marijuana establishment” as that term is defined in 28-B M.R.S.A. § 102(29), as may be amended. A marijuana establishment is a marijuana store, a marijuana cultivation facility, a marijuana products manufacturing facility, a marijuana testing facility or a marijuana social club.

Marijuana products manufacturing facility. A “products manufacturing facility” as that term is defined in 28-B M.R.S.A. § 102(42), as may be amended. A marijuana products manufacturing facility is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a marijuana cultivation facility only to other marijuana products manufacturing facilities, marijuana stores and marijuana social clubs. A marijuana products manufacturing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Marijuana social club. A “marijuana social club” as that term is defined in 28-B M.R.S.A. § 102(33), as may be amended. A marijuana social club is an entity licensed to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana products to consumers for consumption on the licensed premises. Marijuana social clubs are prohibited in all zoning districts.

Marijuana store. A “marijuana store” as that term is defined in 28-B M.R.S.A. § 102(34), as may be amended. A marijuana store is an entity licensed to purchase adult use marijuana from a marijuana cultivation facility and to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana and adult use marijuana products to consumers. A marijuana store is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Marijuana testing facility. A “testing facility” as that term is defined in 28-B M.R.S.A. § 102(53), as may be amended. A marijuana testing facility is facility licensed to develop, research and test marijuana, marijuana products and other substances. A

marijuana testing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

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Plant canopy. "Plant canopy" as that term is defined in 28-B M.R.S.A. § 102(40), as may be amended.

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## ARTICLE V. Residential Districts

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### Sec. 27-553. Special exceptions (G).

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- (h) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.
- (i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (j) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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### Sec. 27-573. Special exceptions (VR).

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- (i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (j) Medium-scale ground-mounted solar energy systems.
- (k) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

## ARTICLE VII. Mixed Use/Commercial Districts

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### Sec. 27-703. Special exceptions (LB).

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(k) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(l) Medium- and large-scale ground-mounted solar energy systems.

(m) Marijuana store.

(n) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-712. Special exceptions (VC).**

• • •

(k) Farmers' Market subject to the provisions of Sec. 27-1580 et seq.

(l) Medium-scale ground-mounted solar energy systems.

(m) Marijuana store.

(n) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-721. Special Exceptions (VCW).**

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(g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(h) Medium-scale ground-mounted solar energy systems.

(i) Marijuana store.

(j) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-731. Special exceptions (SP).**

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- (i) Medium-scale ground-mounted solar energy systems.
- (j) Large-scale ground-mounted solar energy systems on lots greater than or equal to three (3) acres.
- (k) Marijuana store.
- (l) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-739. Permitted uses (CS).**

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- (g) Personal Services.
- (h) Medium-scale ground-mounted solar energy systems.
- (i) Marijuana testing facility.

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**Sec. 27-741. Special exceptions (CS).**

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- (e) Telecommunication towers.
- (f) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (g) Large-scale ground-mounted solar energy systems.
- (h) Marijuana products manufacturing facility.
- (i) Marijuana store.

- (j) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-750. Permitted uses (CG).**

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- (j) Telecommunication towers. Site plan approval by the Planning Board is required.
- (k) Medium- and large-scale ground-mounted solar energy systems.
- (l) Marijuana cultivation facility.
- (m) Marijuana products manufacturing facility.
- (n) Marijuana store.
- (o) Marijuana testing facility.
- (p) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-758. Permitted uses (PO).**

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- (e) Child, adult or combined day care centers.
- (f) Medium-scale ground-mounted solar energy systems.
- (g) Marijuana cultivation facility.
- (h) Marijuana products manufacturing facility.
- (i) Marijuana store.
- (j) Marijuana testing facility.
- (k) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-764. Permitted uses (CCRT).**

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(k) Educational Services.

(l) Medium-scale ground-mounted solar energy systems.

(m) Marijuana cultivation facility.

(n) Marijuana products manufacturing facility.

(o) Marijuana store.

(p) Marijuana testing facility.

(q) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-772. Permitted uses (CCR).**

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(m) Educational Services.

(n) Medium-scale ground-mounted solar energy systems.

(o) Marijuana cultivation facility.

(p) Marijuana products manufacturing facility.

(q) Marijuana store.

(r) Marijuana testing facility.

(s) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-780. Permitted uses (C).**

• • •

(k) Charitable and philanthropic organizations.

(l) Child, adult or combined day care centers.

(m) Marijuana testing facility.

**Sec. 27-781. Special exceptions (C).**

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(i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(j) Medium- and large-scale ground-mounted solar energy systems.

(k) Marijuana cultivation facility.

(l) Marijuana products manufacturing facility.

(m) Marijuana store.

(n) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-801. Permitted Uses (MSCC).**

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(c) *Commercial:*

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4. Personal and business services.

5. Restaurants and other places for the serving of food or beverages, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

6. Marijuana testing facility.

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**Sec. 27-802 Special Exceptions (MSCC).**

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(b) *Commercial:*

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2. Motor vehicle repair shops provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.
3. Farmers' markets subject to the provisions of Sec. 27-1580 et seq.

4. Marijuana store.

5. Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-812. Permitted uses (VE).**

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(c) *Commercial uses:*

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3. Personal and business services.
4. Restaurants and other places for the serving of food or beverages including coffee shops and bakeries, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. and do not include any provisions for drive-up or drive-through services.
5. Marijuana testing facility.

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**Sec. 27-813. Special exceptions (VE)**

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(a) *Commercial:*

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
  - (i) The Planning Board may limit the percentage of area coverage;
  - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
  - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.
2. Marijuana store.
3. Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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(e) *Other uses:*

1. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.
2. Medium-scale ground-mounted solar energy systems.
3. Marijuana products manufacturing facility.

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**Sec. 27-822. Permitted uses (BC).**

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(c) *Commercial uses:*

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3. Personal and business services.
4. Restaurants and other places for the serving of food or beverages including coffee shops and bakeries, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. Provisions for drive-up or drive-through services are permitted in conjunction with a restaurant only if the maximum number of transactions during the AM Peak Hour or PM Peak Hour is less than twenty (20).
5. Marijuana testing facility.

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**Sec. 27-823. Special exceptions (BC).**

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(a) *Commercial:*

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
  - (i) The Planning Board may limit the percentage of area coverage;
  - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
  - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

2. Marijuana store.

3. Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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(e) *Other uses:*

1. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.
2. Medium- and large-scale ground-mounted solar energy systems.
3. Marijuana products manufacturing facility.

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**Sec. 27-832. Permitted uses (MCC).**

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(c) *Commercial uses:*

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3. Personal and business services.
4. Restaurants and other places for the serving of food or beverages including coffee shops and bakeries, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. Provisions for drive-up or drive-through services are permitted in conjunction with a retail or service establishment only as part of a Planned Development approved under the standards of Sec. 27-834.
5. Marijuana testing facility.

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**Sec. 27-833. Special exceptions (MCC).**

(a) *Commercial:*

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2. Retail stores and service establishments that are open to the public between the hours of 12:00 a.m. and 6:00 a.m. but only as part of a Planned Development.
3. Restaurants that are open to the public between the hours of 1:00 a.m. and 6:00 a.m. but only as part of a Planned Development.
4. Marijuana store.

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(e) *Other uses:*

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- (2) Medium- and large-scale ground-mounted solar energy systems.
- (3) Marijuana products manufacturing facility.
- (4) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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## ARTICLE IX. Industrial Districts

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### Sec. 27-902. Permitted uses (IL).

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- (l) Post-Secondary or adult educational Services.
- (m) Medium-scale ground-mounted solar energy systems.
- (n) Marijuana cultivation facility.
- (o) Marijuana products manufacturing facility.
- (p) Marijuana testing facility.
- (q) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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### Sec. 27-922. Permitted uses (S).

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- (n) Storing and handling of petroleum and/or petroleum products subject to the provisions of Sec. 27-1517, excluding automobile filling stations; provided, however, that any such storing and handling of petroleum and/or petroleum

products shall not include the bulk loading of crude oil onto any marine tank vessel.

(o) Medium-scale ground-mounted solar energy systems.

(p) Marijuana cultivation facility.

(q) Marijuana products manufacturing facility.

(r) Marijuana testing facility.

(s) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-942. Permitted uses (I).**

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(3) Any use permitted in Commercial District C Zone provided that all residential uses shall meet the space and bulk regulations set forth in Sec. 27-946.

(4) Child, adult or combined day care centers.

(5) Marijuana testing facility.

**Sec. 27-943. Special exceptions (I).**

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(g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(h) Medium- and large-scale ground-mounted solar energy systems.

(i) Marijuana cultivation facility.

(j) Marijuana products manufacturing facility.

(k) Marijuana store.

(l) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-962. Permitted uses (INR).**

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- (6) Meteorological tower (MET tower) on property identified by the City of South Portland as Assessor's Map 56, Lot 4D.
- (7) Medium- and large-scale ground-mounted solar energy systems.
- (8) Marijuana cultivation facility.
- (9) Marijuana products manufacturing facility.
- (10) Marijuana testing facility.
- (11) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-1203.5 Special Exceptions (CAZ).**

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- (a) Medium- and large-scale ground-mounted solar energy systems.
- (b) Marijuana store.
- (c) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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**Sec. 27-1541. ~~Performance standards for medical marijuana dispensaries.~~ Reserved.**

~~Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Planning Board prior to January 11, 2010.~~

~~The following standards apply to all medical marijuana dispensaries:~~



~~(a) Location criteria. No medical marijuana dispensary shall be sited within 1,000 feet of the lot lines of any of the following:~~

- ~~(1) a church, synagogue or other house of religious worship;~~
- ~~(2) a public or private school;~~
- ~~(3) a lot zoned residential or used as a residence;~~
- ~~(4) an athletic field, park, playground or recreational facility;~~
- ~~(5) any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center;~~
- ~~(6) a licensed child care facility; or~~
- ~~(7) a lot on which another medical marijuana dispensary is sited.~~

~~The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed in (1) through (7) above at their closest points.~~

~~(b) Hours of operation. Medical marijuana dispensaries may be open for business only between the hours of 8:00 a.m. and 8:00 p.m., locally prevailing time.~~

~~(c) Signage and advertising. All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of the Code of Ordinances. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.~~

~~(d) Security requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:~~

- ~~(1) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;~~
- ~~(2) door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;~~
- ~~(3) a locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises;~~
- ~~(4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Code of Ordinances; and~~
- ~~(5) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).~~

~~All security recordings shall be preserved for at least seventy-two (72) hours by the medical marijuana dispensary. The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the medical marijuana dispensary.~~

- ~~(e) Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.~~
- ~~(f) On-site consumption of medical marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a registered patient, as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended, may consume medical marijuana within the enclosed building area of the premises if such consumption occurs via oral consumption (i.e., eating only). For purposes of this subsection, the term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary's entrance.~~
- ~~(g) Visibility of activities; control of emissions; disposal plan.
  - ~~(1) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.~~
  - ~~(2) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.~~
  - ~~(3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.~~
  - ~~(4) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.~~~~
- ~~(h) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.~~
- ~~(i) Other laws remain applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or~~

~~regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.~~

- ~~(j) Maximum number. The maximum number of medical marijuana dispensaries in the City shall be capped at one (1).~~

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## **ARTICLE XIX. MEDICAL AND ADULT USE MARIJUANA PERFORMANCE STANDARDS**

### **Sec. 27-1901. Performance standards for medical marijuana dispensaries.**

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Planning Board prior to January 11, 2010.

The following standards apply to all medical marijuana dispensaries:

- (a) Location criteria. No medical marijuana dispensary shall be sited within 1,000 feet of the lot lines of any of the following:
- (1) a church, synagogue or other house of religious worship;
  - (2) a public or private school;
  - (3) a lot zoned residential or used as a residence;
  - (4) an athletic field, park, playground or recreational facility;
  - (5) any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center;
  - (6) a licensed child care facility.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed in (1) through (7) above at their closest points.

- (b) Hours of operation. Medical marijuana dispensaries may be open for business only between the hours of 8:00 a.m. and 8:00 p.m., locally prevailing time.
- (c) Signage and advertising. All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of the Code of Ordinances. In addition, no signage or advertising shall use the word "marijuana" or

“cannabis,” or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word “medical” in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

(d) Security requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:

(1) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

(2) door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;

(3) a locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises;

(4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Code of Ordinances; and

(5) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least seventy-two (72) hours by the medical marijuana dispensary. The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the medical marijuana dispensary.

(e) Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.

(f) On-site consumption of medical marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

- (g) Visibility of activities; control of emissions; disposal plan.
- (1) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.
  - (2) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.
  - (3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
  - (4) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.
- (h) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (i) Other laws remain applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.
- (j) Maximum number. The maximum number of medical marijuana dispensaries in the City shall be capped at one (1).

**Sec. 27-1902. Performance standards for marijuana establishments.**

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed marijuana establishment for which an application has not been submitted and acted on by the Planning Board prior to January 1, 2017.

- (a) Separation from sensitive uses. (1) No marijuana store shall be sited within one thousand (1,000) feet of the lot lines of a public or private school, and (2) no marijuana store shall be sited within three hundred (300) feet of the lot lines of a church, synagogue or other house of religious worship.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the marijuana store and the lot line of the site of the use listed in (1) or (2) above at their closest points.

The City will only verify distance of the proposed premises from existing uses listed in (1) or (2) above; once all of the City-required licenses, permits and approvals are issued, the City will not preclude a sensitive use listed in (1) or (2) above from opening at a location within the applicable buffer zones.

A marijuana store may continue to operate in its present location as a pre-existing use if a sensitive use as listed in (1) or (2) above later locates within the applicable buffer zone; however, the marijuana store does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store near a sensitive use listed in (1) or (2) above.

- (b) Hours of operation. Marijuana stores are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products as may be set forth in State statute or in the zoning district regulations for the zone in which the marijuana store is located. When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.
- (c) Size limitation. The plant canopy of a marijuana cultivation facility shall not exceed ten thousand (10,000) square feet in area.
- (d) Separation of marijuana stores. No marijuana store shall be sited within three hundred (300) feet of another marijuana store as measured between the closest points of the storefronts.
- (e) Area of activities; control of odors and emissions; sealed walls; disposal plan.
  - (1) All activities of marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments are not permitted outdoor sales or services of any kind.
  - (2) Odor management. For all marijuana establishments, the odor of marijuana must not be perceptible at the exterior of the building at the premises or at any adjoining use of the property. Marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Marijuana stores, marijuana product manufacturing facilities, and marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration,

all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

- (3) Noxious gases and fumes. Marijuana product manufacturing facilities and marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
- (4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment must be provided at all times.
- (5) All marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.
- (f) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (g) Drive-through and home delivery. Marijuana stores are prohibited from having drive-through pick-up facilities, and from providing home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.
- (h) In accordance with Sec. 32-5(A) of the Code of Ordinances, relating to allowed and prohibited pesticides, the only pesticides allowed to be used in marijuana cultivation facilities are non-synthetic substances, unless specifically listed as “prohibited” on the National List, and pesticides determined to be “minimum risk pesticides” pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.
- (i) Marijuana social clubs are prohibited in all zoning districts.

- (i) Other laws remain applicable. A marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing adult use marijuana and/or marijuana establishments, the stricter law or regulation shall control.

Fiscal Note: Less than \$1,000

October 2, 2017