

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

***Subject:***

**RESOLVE #12-17/18 – Requesting Council guidance regarding amendments to Chapter 27, “Zoning” regarding Marijuana Zoning. Passage requires majority vote.**

***Position:***

At your August 14, 2017 workshop, Council provided staff with guidance by answering a number of key questions regarding the regulation of commercial marijuana. While staff was able to create draft zoning and licensing ordinances based on this feedback, a few key items still need clarity before a first reading can be held on these ordinances.

In specific, feedback from Council at that workshop showed three Councilors in favor of allowing home cultivation of marijuana for commercial sale, while three Councilors were opposed. Similarly, three Councilors were in favor of allowing social clubs, while three were opposed.

There are two drafts — one with home occupation cultivation use (Alternative #1) and one without home occupation cultivation use (Alternative #2). New wording is highlighted but staff did not use strikeouts when removing text. The text highlighted in **green** sets forth options pertaining to the regulation of Retail Marijuana Social Clubs. One option (Option B) prohibits these businesses from operating in South Portland, while the other option (Option A) treats Retail Marijuana Social Clubs the same as Retail Marijuana Stores. The text highlighted in **yellow** reflects text added as a result of discussion at the August workshop where there appeared to be consensus among Councilors.

Staff is asking Council to move one of the four options available to you to a first read at your next meeting. To summarize, these options are:

- 1A: Allow home occupation cultivation and social clubs
- 1B: Allow home occupation cultivation but disallow social clubs

- 2A: Disallow home occupation cultivation but allow social clubs
- 2B: Disallow home occupation cultivation and social clubs

The State's Marijuana Legalization Implementation Committee has recently released a draft version of a bill that will be considered by the legislature. Attached is a summary of the bill provided by the Maine Municipal Association, as well as the proposed legislation itself. Please note that the proposal would allow both drive-through and home delivery of marijuana. These are not allowed under the proposed ordinance as we have been, in general, treating recreational marijuana the same as alcohol. Should Council wish to allow one or both of these things, an amendment to the proposed ordinance would need to be made.

Assistant City Manager Josh Reny, Planning Director Tec Haeuser, and Corporation Counsel Sally Daggett will be present at your meeting to answer any questions you may have.

***Requested Action:***

Council passage of RESOLVE #12-17/18.



\_\_\_\_\_  
City Manager



Maine Municipal  
Association

60 COMMUNITY DRIVE  
AUGUSTA, MAINE 04330-9486  
(207) 623-8428  
[www.memun.org](http://www.memun.org)

To: Key Municipal Officials

From: Garrett Corbin

Date: September 13, 2017

Re: New Marijuana Legislation

For the better part of this year, the Legislature's Marijuana Legalization Implementation Committee has worked to craft legislation containing many important amendments to Maine's Marijuana Legalization Act. The Act, which legalizes the use of marijuana by persons over 21 years of age as well as industries associated with such use, became law earlier this year as a result of a statewide referendum approved by the voters in last November's election.

The Committee's bill, LR 2395, "An Act To Amend the Marijuana Legalization Act," was made publicly available yesterday.

What follows is a description of LR 2395 as well as additional information regarding the channels for communicating your perspective on this matter if you wish. The full text of the bill is available [here](#), and an article printed in the most recent edition of the *Maine Townsman* which includes background information you may find helpful is available [here](#). Additionally, a link to a compilation of MMA's resources on this topic may be found on the right-hand side of the MMA homepage at [www.memun.org](http://www.memun.org).

**MMA Description of LR 2395 - An Act To Amend the Marijuana Legalization Act.**

This bill provides the regulatory framework necessary to implement the citizen initiated law legalizing the recreational use of marijuana for person 21 years of age or older, which as proposed in the bill is referred to as the "adult use" of marijuana.

**Local Control.** Of greatest significance to municipal officials, the bill expressly authorizes municipalities to prohibit the operation of some or all types of marijuana establishments (e.g. cultivation, manufacture, testing, retail stores and social clubs) within the municipality and also limit the number of any type of establishment that may be approved or licensed to operate in the community. The bill authorizes communities to adopt reasonable land

use ordinances regulating the location of all marijuana establishments within the community and impose reasonable licensing requirements addressing matters not regulated by the state. The bill specifies that municipalities can adopt ordinances that: (1) place reasonable restrictions on size, content and location of signs and advertisements used by marijuana establishments, except that provisions must prohibit the placement of signs and advertisements within 1,000 feet of the property line of a preexisting public or private school; (2) establish reasonable municipal licensing fee schedules; and (3) enforce odor control measures for both commercial and personal cultivation of marijuana. Furthermore, municipalities are authorized to deny an application for the location of a marijuana establishment within the community without first adopting an ordinance regulating marijuana establishments.

The standards adopted by the municipality, however, cannot be more restrictive than or otherwise conflict with explicit state regulations. Municipalities are expressly prohibited from approving or licensing marijuana establishments that seek to locate within 1,000 feet of the property line of an existing public or private school, although municipalities may expand that minimum distance. Municipalities are also prohibited from granting a license to an applicant that has not demonstrated that the applicant owns or leases the property from which the proposed establishment will operate. The bill requires applicants to submit a site plan designating the location, size and layout of the proposed establishment. If the applicant is approved or granted a license to operate in the community, the municipality must provide the Department of Administrative and Financial Services (DAFS) with a copy of the submitted site plan.

As provided in the bill, a municipality's failure to act on a request for approval or a license to operate a marijuana establishment cannot be construed to satisfy the approval or licensing process. If at any time a municipality withdraws approval for a marijuana establishment or revokes a municipal license, the establishment must immediately cease operations and may apply to DAFS for a relocation permit.

Finally, municipalities are required to notify DAFS within 14 days of a decision to: (1) approve or deny the location of a marijuana establishment; (2) issue or renew a license; (3) withdraw the approval or suspend or revoke a license; (4) approve the relocation of a licensed premises; or (5) approve a transfer of ownership interest in a licensed establishment.

**Taxation.** The bill assesses a 20 percent state sale tax on products sold at marijuana retail stores and social clubs. Five percent of all monthly tax revenue generated within each municipality by all marijuana stores and social clubs within the municipality must be distributed to that municipality. One percent of the total monthly tax revenue generated statewide must be distributed in equal amounts to each municipality that had a cultivation facility, product manufacturing facility, marijuana store or social club in operation in the municipality during the prior month. Twelve percent of the total monthly tax revenue must be transferred to the Adult Use Marijuana Public Health and Safety Fund to be used to facilitate public health and safety awareness education programs and for enhanced training for local, county and state law enforcement officers.

**State Agency Authority.** Regulatory implementation and oversight of the law is assigned primarily to DAFS and the Department of Agriculture, Conservation and Forestry (DACF). As proposed in the bill, DAFS is authorized to:

- Adopt the major substantive rules establishing: (1) initial license and renewal application processes; (2) qualifications for licensure; (3) licensing fees; (4) appeals process for a denial of an application and the conduct of appeals and hearings; and (5) security requirements for marijuana stores and social clubs. DAFS must provisionally adopt these rules on or before March 15, 2018.
- Implement and administer a system to track adult use marijuana from immature plant to the point of retail sale, disposal or destruction.
- Develop programs or initiatives to facilitate the collection and analysis of data regarding the impacts and effects of the use of marijuana in the State, including youth and adult marijuana use; school suspension and discipline; E-911 calls, emergency department visits and hospitalizations; operating under the influence arrests; motor vehicle accidents; and violent crimes associated with the use of marijuana.
- Develop and implement programs, initiatives and campaigns focused on educating the public on the health and safety matters related to the use of marijuana.
- Develop and implement programs or initiatives providing enhanced training for criminal justice agencies in the requirement and enforcement of the law, including training law enforcement officers in the inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances.
- In collaboration with DACF annually submit a report to the joint standing committee of the Legislature with jurisdiction over adult use marijuana. The report must include information on the number and types of applications, total amount of application and license fees received and the amount of sales tax revenue collected; volume and value of adult use marijuana sold by stores, social clubs and cultivation facilities; number of inspections conducted; number of license violations committed; public health and safety data; and recommendations for legislation to address issues associated with adult use marijuana. The first report must be submitted on February 15, 2019.

DACF is directed by the bill to implement, administer, enforce and adopt rules to regulate the cultivating, manufacture and testing of adult use marijuana including: (1) marijuana seeds, clones and plants; (2) security requirements (e.g., lighting, physical security, alarms and other internal control and security, etc.); (3) use of pesticides, fungicides and herbicides, harvesting and storage of marijuana products; (4) limits on the concentration of THC and other cannabinoid per product serving; (5) odor control, sanitary, refrigeration, storage and warehousing standards; and (6) packaging and labeling of marijuana products. DACF must provisionally adopt these rules on or before March 15, 2018.

The bill also:

**State Licensing Authority.** Establishes several initial, renewal, transfer of ownership, relocation of premises licensing criteria, include delaying the licensing of social clubs until June 1, 2019. If an application is approved, the state is required to issue a conditional license. An active license to operate a marijuana establishment is issued only if and when the applicant obtains municipal approval or a municipal license to operate within the municipality's boundaries. A conditional license expires in one year.

**Regulation in the Workplace.** Allows employers to: (1) prohibit the use, consumption, possession, trade, display, transport, sale or cultivation of marijuana in the workplace; (2) adopt policies restricting the use of marijuana by employees; and (3) discipline employees who are under the influence of marijuana in the workplace according to the employer's policies.

**Operating, Testing, Labeling and Packaging Requirements.** Sets into place the many operating, testing, labeling and packaging requirements for the cultivation, manufacturing and testing facilities, as well as for retail stores and social clubs.

**License Violation.** Implements the process for fining a licensee or suspending or revoking licenses for violations of state law.

**Personal Use of Marijuana Products.** Establishes qualitative limits for the personal use, consumption, cultivation and possession of marijuana by persons 21 years of age or older.

**Marijuana Advisory Commission.** Creates the 15 member Marijuana Advisory Commission, which includes a representative of a statewide association representing municipalities appointed by the Speaker of the House. The commission is tasked with reviewing the laws and rules pertaining to the adult use and medical marijuana industries and recommending changes to the laws and rules that are necessary to preserve public health and safety. Beginning January 15, 2019, and annually thereafter, the commission is required to submit a report containing findings and recommendations to the joint standing committee or committees of the Legislature having jurisdiction over medical marijuana and adult use marijuana matters.

**Adult Use Marijuana Public Health and Safety Fund.** Creates a dedicated, non-lapsing fund within DAFS capitalized by 12% of the sales tax revenue generated by the 20% tax imposed on the products sold in retail stores and social clubs and all funding from other public or private sources. The revenues dedicated to the fund must be evenly divided between to public health and safety awareness and education programs and enhanced state, county and municipal law enforcement training programs related to the sale and use of adult use marijuana.

**Additional information regarding the legislative process.** The MLI Committee will be holding a public hearing on the bill on Tuesday, September 26, starting at 9:00 am in the Appropriations and Financial Affairs Committee room (State House, Room 228). All members of the public are welcome to submit comments on LR 2395 in person at the public hearing, or in

writing through the Committee's Legislative Advocate at [Daniel.Tartakoff@legislature.maine.gov](mailto:Daniel.Tartakoff@legislature.maine.gov).

Because the Committee anticipates a large turnout for the hearing, they are advising the following:

- Those who do intend to testify at the hearing are asked not to submit testimony in advance but instead to bring 25 copies of that testimony to the public hearing to be distributed when testifying.
- People who wish to testify should sign up at the table outside Room 228 the morning of the hearing. The order of testimony will follow the order of the sign-up sheets. Sign-up sheets will be available starting at 8:15 am on the 26th.
- Testimony will be limited to 3 minutes per individual speaker.
- There will be two overflow rooms available if seating in Room 228 is full. Information on the overflow rooms will be provided at the hearing.

Additionally, MMA's Legislative Policy Committee (LPC) has been asked to take a position on this legislation. Municipal officials are encouraged to share their comments, suggestions, or concerns with representatives on the LPC in the meantime. Municipal officials looking for their LPC members' contact information, or wishing to be added to MMA's "MLI" notification list, may contact Laura Ellis in MMA's State and Federal Relations Department at [lellis@memun.org](mailto:lellis@memun.org) or (207) 623-8428. The MLI Committee's members, staff, schedules, and live online audio streaming of meetings are all available through its website at <http://legislature.maine.gov/committee/#Committees/MLI>.

Finally, MMA would like to stress the relatively high degree of Home Rule deference afforded to municipalities in this legislation, and in the existing Act. Municipal officials have significant latitude to adjust their ordinances to meet their communities' needs.

You are welcome to contact the MMA State and Federal Relations Department's Legislative Advocate Garrett Corbin at [GCorbin@memun.org](mailto:GCorbin@memun.org) or 1-800-452-8786 with any questions pertaining to this legislation.

Questions pertaining to the implementation of a moratorium in your community, or other municipal or legal actions, should be directed to MMA's Legal Services Department at [Legal@memun.org](mailto:Legal@memun.org) or 1-800-452-8786.

**LR 2395 – AN ACT TO AMEND THE MARIJUANA LEGALIZATION ACT**

Draft MLI Committee bill – for public hearing September 26, 2017  
Prepared by OPLA staff based on MLI Committee discussions and decisions

---

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the people of the State of Maine in November 2016 passed into law the Marijuana Legalization Act, which establishes a system of licensing for the cultivation, manufacture, testing and retail sale of adult use marijuana and adult use marijuana products in the State and which enables persons 21 years of age or older to legally acquire, possess and consume adult use marijuana and adult use marijuana products and to cultivate marijuana for personal use; and

**Whereas,** amendments to the Marijuana Legalization Act are necessary to provide clarity in the licensing and regulation of adult use marijuana establishments and in the oversight and enforcement of the laws regarding the personal use and home cultivation of marijuana; and

**Whereas,** to facilitate the timely implementation of a retail marketplace in the State for adult use marijuana and adult use marijuana products, the agencies charged by law with the implementation, administration and enforcement of the Marijuana Legalization Act must adopt regulatory rules in accordance with the Act and the Legislature must review such rules in accordance with the Maine Administrative Procedure Act as soon as is practicable; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**PART A**

**Sec. A-1.** 5 MRSA §12004-I, sub-§52-C is enacted to read:

**52-C.**

<u>Judiciary:</u>	<u>Marijuana Advisory</u>	<u>Expenses Only</u>	<u>28-B MRSA §§1001</u>
<u>Marijuana</u>	<u>Commission</u>		

**Sec. A-2.** 7 MRSA c. 417 is repealed.



Sec. A-3. Title 28-B is enacted to read:

**TITLE 28-B**

**ADULT USE MARIJUANA**

**CHAPTER 1**

**MARIJUANA LEGALIZATION ACT**

**SUBCHAPTER 1**

**GENERAL PROVISIONS**

**§101. Short title**

This chapter may be known and cited as "the Marijuana Legalization Act."

**§102. Definitions**

As used in this chapter and in chapter 2, unless the context otherwise indicates, the following terms have the following meanings.

**1. Adult use marijuana.** "Adult use marijuana" means marijuana cultivated, distributed or sold by a marijuana establishment.

**2. Adult use marijuana product.** "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.

**3. Another jurisdiction.** "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine.

**4. Applicant.** "Applicant" means a person that submits an application for a license under this chapter to the department for review that has not yet been approved or denied by the department.

**5. Batch.** "Batch" means:

A. A specific quantity of adult use marijuana harvested during a specified period of time from a specified cultivation area within a cultivation facility; or

B. A specific quantity of adult use marijuana products produced during a specified period of time from a specified manufacturing area within a products manufacturing facility.

**6. Batch number.** "Batch number" means a distinct group of numbers, letters or symbols, or any combination thereof, assigned to a specific batch of adult use marijuana by a cultivation facility or to a specific batch of adult use marijuana products by a products manufacturing facility.

**7. Business entity.** "Business entity" means a partnership, association, company, corporation, limited liability company, proprietorship or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

**8. Child-resistant.** "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal;

B. Opaque so that the product cannot be seen from outside the packaging; and

C. For any product intended for more than a single use or containing multiple servings, resealable.

**9. Commissioner.** "Commissioner" means the Commissioner of Administrative and Financial Services.

**10. Container.** "Container" means a sealed package in which adult use marijuana or an adult use marijuana product is placed by a marijuana store or marijuana social club prior to sale to a consumer that meets all applicable packaging, labeling and health and safety requirements of this chapter and the rules adopted pursuant to this chapter.

**11. Criminal justice agency.** "Criminal justice agency" has the same meaning as in Title 16, section 803, subsection 4.

**12. 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 including manufacturing.

**13. Cultivation facility.** "Cultivation facility" means a facility licensed under this chapter to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to products manufacturing facilities, marijuana stores and to other cultivation facilities.

**14. Department.** "Department" means the Department of Administrative and Financial Services.

**15. Disqualifying drug offense.** “Disqualifying drug offense” means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, except that “disqualifying drug offense” does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to the submission of an application for a license under this chapter; or

B. An offense that consisted of conduct that is authorized under chapter 2.

**16. Edible marijuana product.** "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate.

**17. Flowering.** "Flowering" means, with respect to a marijuana plant, the gametophytic or reproductive state of a marijuana plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

**18. Identity statement.** "Identity statement" means the name of a business entity as it is commonly known and used in any advertising or marketing by the business entity.

**19. Immature marijuana plant.** "Immature marijuana plant" means a marijuana plant that is not flowering and that is not a mature marijuana plant, as defined in subsection 35, or a seedling, as defined in subsection 50;

**20. Inherently hazardous substance.** “Inherently hazardous substance” means any 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.

**21. Intoxication.** “Intoxication” means a substantial impairment of an individual’s mental or physical faculties as a result of drug or alcohol use.

**22. Law enforcement officer.** “Law enforcement officer” has the same meaning as in Title 17-A, section 2, subsection 17.

**23. Licensed premises.** "Licensed premises" means the premises specified in a license to operate a marijuana establishment within which the licensee is authorized under this chapter and the rules adopted pursuant to this chapter to cultivate, manufacture, distribute, test or sell adult use marijuana or adult use marijuana products or, in the case of a marijuana social club, allow the consumption of adult use marijuana products. “Licensed premises” includes, but is not limited to, a limited access area and a restricted access area.

**24. Licensee.** “Licensee” means a person licensed pursuant to this chapter to operate a marijuana establishment.

**25. Limited access area.** "Limited access area" means a building, room or other area within a licensed premises where a licensee is authorized to cultivate, store, weigh, manufacture, package or sell adult use marijuana and adult use marijuana products in accordance with the provisions of this chapter and the rules adopted pursuant to this chapter.

**26. Manufacturing or manufacture.** "Manufacturing or manufacture" means the production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing or manufacture" does not include cultivation.

**27. Marijuana.** "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" does not include industrial hemp, as that term is defined in Title 7, section 2231, or a marijuana product.

**28. Marijuana concentrate.** "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

**29. Marijuana establishment.** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility, a marijuana store or a marijuana social club licensed under this chapter.

**30. Marijuana extraction.** "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases or solvents.

**31. Marijuana plant.** "Marijuana plant" means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant and a seedling.

**32. Marijuana product.** "Marijuana product" means marijuana concentrate or a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture.

**33. Marijuana social club.** "Marijuana social club" means a facility licensed under this chapter to purchase adult use marijuana products from a products manufacturing facility and to sell adult use marijuana products to consumers for consumption on the licensed premises of the marijuana social club.

**34. Marijuana store.** "Marijuana store" means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility, to purchase adult use marijuana products from a products manufacturing facility and to sell adult use marijuana and adult use marijuana products to consumers.

**35. Mature marijuana plant.** “Mature marijuana plant” means a marijuana plant that is flowering or that is of a size:

A. Greater than 12 inches in height; or

B. Greater than 12 inches in width.

**36. Mother plant.** "Mother plant" means a mature marijuana plant that is used solely for the taking of seedling cuttings.

**37. Municipality.** “Municipality” means a city, town or plantation.

**38. Participating municipality.** “Participating municipality” means a municipality that has approved or licensed the operation of at least one cultivation facility, products manufacturing facility, marijuana store or marijuana social club that is in operation within the municipality.

**39. Person.** "Person" means a natural person or a business entity.

**40. Plant canopy.** "Plant canopy" means the area within the licensed premises of a cultivation facility that is dedicated to the live cultivation of marijuana plants, including, but not limited to, the growth and maintenance of mother plants, the propagation of marijuana plants from seed to plant tissue, the cloning of marijuana plants and the maintenance of a vegetative or flowering area for marijuana plants. "Plant canopy" does not include the area within the licensed premises of a cultivation facility that is not dedicated to the live cultivation of marijuana 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.

**41. Primary caregiver.** “Primary caregiver” has the same meaning as in Title 22, section 2422, subsection 8-A.

**42. Products manufacturing facility.** “Products manufacturing facility” means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products to marijuana stores, marijuana social clubs and to other products manufacturing facilities.

**43. Propagation.** "Propagation" means the process of reproducing marijuana plants through the use of seeds, cuttings or grafting.

**44. Qualifying patient.** "Qualifying patient" means a person who possesses a valid certification for the medical use of marijuana pursuant to Title 22, section 2423-B.

**45. Registered primary caregiver.** “Registered primary caregiver” has the same meaning as in Title 22, section 2422, subsection 11.

**46. Registered dispensary.** "Registered dispensary" means a dispensary that is registered by the Department of Health and Human Services pursuant to Title 22, section 2428.

**47. Restricted access area.** "Restricted access area" means a designated and secure area within the licensed premises of a marijuana store or a marijuana social club where adult use marijuana or adult use marijuana products are stored, displayed for sale, offered for sale, sold or, in the case of a marijuana social club, consumed.

**48. Sale or sell.** "Sale or sell" means any transfer or delivery of marijuana or marijuana products for a consideration.

**49. Sample.** "Sample" means:

**A.** An amount of adult use marijuana or an amount of an adult use marijuana product provided to a testing facility by a marijuana establishment or other person for testing or research and development purposes in accordance with subchapter 6;

**B.** An amount of adult use marijuana or an amount of an adult use marijuana product collected from a licensee by the Department of Agriculture, Conservation and Forestry for the purposes of testing such marijuana or marijuana product for product quality control purposes pursuant to section 512, subsection 2; or

**C.** An amount of an adult use marijuana product provided to a marijuana store or marijuana social club by a products manufacturing facility for business or marketing purposes pursuant to section 502, subsection 4.

**50. Seedling.** "Seedling" means a marijuana plant that is:

**A.** Not flowering;

**B.** Less than 6 inches in height; and

**C.** Less than 6 inches in width.

**51. Tamper-evident.** "Tamper-evident" means a device or process, including, but not limited to, a seal, a label or a marking, that makes unauthorized access to or tampering with a package, product or container easily detectable.

**52. Testing or test.** "Testing or test" means the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing or test" does not include cultivation or manufacturing.

**53. Testing facility.** "Testing facility" means a facility licensed under this chapter to develop, research and test marijuana, marijuana products and other substances.

**54. THC.** "THC" means tetrahydrocannabinol.

**55. Universal symbol.** "Universal symbol" means an image developed by the department and made available to licensees, which indicates that a container, package or product contains marijuana or contains or is a marijuana product.

**56. Visibly intoxicated.** "Visibly intoxicated" means a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual which clearly demonstrates a state of intoxication.

### **§103. Unauthorized conduct; penalties**

**1. Unauthorized conduct.** Except as otherwise provided in this chapter or in chapter 2, in the Maine Medical Use of Marijuana Act or as specifically authorized pursuant to a license issued under this chapter, a person may not:

- A. Cultivate, manufacture or test marijuana or marijuana products;
- B. Sell or offer for sale marijuana or marijuana products; or
- C. Use, possess, transport, transfer, furnish or purchase marijuana or marijuana products.

**2. Penalties.** In addition to any penalties that may be imposed pursuant to this chapter or chapter 2, a person who violates any other provision of law or rule governing the conduct prohibited under subsection 1 is subject to any criminal, civil or administrative penalties that may be imposed pursuant to that law or rule.

### **§104. Administration and enforcement; rulemaking**

**1. Licensing authority.** The department shall have the sole authority under this chapter to:

- A. Grant or deny licenses to marijuana establishments for the cultivation, manufacture, distribution, testing or sale of adult use marijuana and adult use marijuana products in accordance with the requirements of this chapter;
- B. Fine, suspend or revoke licenses issued pursuant to the authority in paragraph A upon a determination that a licensee has committed a violation of this chapter or of any rule adopted pursuant to this chapter or a condition of licensure; and
- C. Impose on a licensee any penalty authorized by this chapter or by rule adopted pursuant to this chapter.

**2. Implementation, administration and enforcement.** The department shall implement, administer and enforce this chapter, except that the Department of Agriculture, Conservation and Forestry shall implement, administer and enforce this chapter in any matters concerning the regulation of the cultivation, manufacture and testing of adult use marijuana and

adult use marijuana products at cultivation facilities, products manufacturing facilities and testing facilities, including, but not limited to, matters concerning the regulation of marijuana seeds, clones and marijuana plants; security requirements for cultivation facilities, products manufacturing facilities and testing facilities, including, but not limited to, lighting requirements, physical security requirements, alarm requirements and other minimum procedures for internal control and security; the use of pesticides, fungicides and herbicides in cultivation; the harvesting and storage of marijuana; the imposition of limits on the concentration of THC and other cannabinoids per serving in adult use marijuana products; odor control standards, sanitary standards, refrigeration requirements and storage and warehousing standards for licensees; and the preparation, manufacture, testing, packaging and labeling of adult use marijuana and adult use marijuana products.

**3. Staffing; department to employ law enforcement personnel.** The department and the Department of Agriculture, Conservation and Forestry may employ such personnel as necessary to implement, administer and enforce this chapter and the rules adopted under this chapter. As part of the staffing necessary to implement, administer and enforce this chapter and the rules adopted under this chapter, the department shall employ personnel who are law enforcement officers to conduct inspections of the licensed premises of licensees, to ensure compliance by licensees with the requirements of this chapter and to otherwise enforce this chapter and the rules adopted under this chapter.

**4. Rules; consultation.** This subsection governs the adoption of rules under this chapter by the department and the Department of Agriculture, Conservation and Forestry. Except as otherwise provided in this chapter, all rules adopted pursuant to this chapter are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. Except as provided in paragraph B, the department shall adopt all rules concerning the licensing and operation of marijuana establishments, including, but not limited to the initial license and license renewal application processes, qualification for licensure, the payment of licensing fees, the appeals process for a denial of an application for licensure and the conduct of appeals and hearings consistent with the Maine Administrative Procedure Act; the distribution, tracking and sale of adult use marijuana and adult use marijuana products; security requirements for marijuana stores and social clubs, including, but not limited to, lighting requirements, physical security requirements, alarm requirements and other minimum procedures for internal control and security; the enforcement of this chapter, including, but not limited to, the process for the imposition of a license fine, suspension, revocation or other penalty for a violation of this chapter or rules adopted under this chapter and the conduct of hearings involving such penalties consistent with the Maine Administrative Procedure Act; and any other matter necessary for the consistent and effective administration of this chapter.

(1) The department shall consult with the Department of Labor prior to the adoption of any rules concerning workplace, employment or other labor matters involved in the regulation of adult use of marijuana and adult use marijuana products under this chapter.



(2) The department shall consult with the Department of Public Safety prior to the adoption of any rules concerning public safety or law enforcement matters involved in the regulation of adult use of marijuana and adult use marijuana products under this chapter.

B. The Department of Agriculture, Conservation and Forestry shall adopt rules concerning the regulation of the cultivation, manufacture and testing of adult use marijuana and adult use marijuana products at cultivation facilities, products manufacturing facilities and testing facilities, including, but not limited to, matters concerning the regulation of marijuana seeds, clones and marijuana plants; security requirements for cultivation facilities, products manufacturing facilities and testing facilities, including, but not limited to, lighting requirements, physical security requirements, alarm requirements and other minimum procedures for internal control and security; the use of pesticides, fungicides and herbicides in cultivation; the harvesting and storage of marijuana; the imposition of limits on the concentration of THC and other cannabinoids per serving in adult use marijuana products; odor control standards, sanitary standards, refrigeration requirements and storage and warehousing standards for licensees; and the preparation, manufacture, testing, packaging and labeling of adult use marijuana and adult use marijuana products.

(1) The Department of Agriculture, Conservation and Forestry shall consult with the Department of Labor prior to the adoption of any rules concerning workplace, employment or other labor matters involved in the regulation of adult use of marijuana and adult use marijuana products under this chapter.

(2) The Department of Agriculture, Conservation and Forestry shall consult with the Department of Public Safety prior to the adoption of any rules concerning public safety or law enforcement matters involved in the regulation of adult use of marijuana and adult use marijuana products under this chapter.

**5. Coordination.** The department and the Department of Agriculture, Conservation and Forestry shall, where necessary and practicable, coordinate implementation, administrative, enforcement and rulemaking activities under this chapter to ensure that this chapter and the rules adopted under this chapter are implemented, administered and enforced in a consistent and effective manner.

### **§105. Tracking system**

The department shall implement and administer a system for the tracking of adult use marijuana and adult use marijuana products from immature plant to the point of retail sale, disposal or destruction.

**1. Data submission requirements.** The system implemented under this section must allow licensees to submit tracking data for adult use marijuana or adult use marijuana products to the department through manual data entry or through the use of tracking system software commonly used within the marijuana industry as determined by the department.

**2. RFID tags.** The system implemented under this section must require the tracking of adult use marijuana and adult use marijuana products through the use of radio-frequency identification or RFID tags purchased from the department.

**3. Tracking system revenue.** Any revenue collected by the department from the sale of RFID tags to licensees as required in subsection 2 must be applied to the expenses incurred by the department in implementing and administering the tracking system required under this section.

**4. Rules.** The department shall adopt rules regarding the implementation and administration of the tracking system and tracking requirements for licensees. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§106. Identification cards**

The department shall issue individual identification cards to natural persons licensed under this chapter and, upon the request of a licensee, shall issue individual identification cards to owners, officers, managers, contractors, employees or other support staff of the licensee who meet the requirements of this section for the issuance of an individual identification card.

**1. Rules.** The department shall adopt rules regarding the issuance and format of and the information to be included on individual identification cards issued under this subsection. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**2. Criminal history record check.** Prior to issuing an individual identification card to a natural person pursuant to this section, the department shall require the person to submit to a criminal history record check in accordance with section 204.

### **§107. Collection and analysis of public health and safety data**

The department shall develop programs or initiatives to facilitate the collection and analysis of data regarding the impacts and effects of the use of marijuana in the State, including, but not limited to, youth and adult marijuana use; school suspension and discipline relating to the use of marijuana; poison center calls, emergency department visits and hospitalizations relating to the use of or exposure to marijuana; operating under the influence citations or arrests relating to the use of marijuana; motor vehicle accidents, including information on fatalities, relating to the use of marijuana; violent crime statistics relating to the use of marijuana generally; violent crime and property crime statistics relating to the regulated and unregulated adult use marijuana markets; and marijuana-related citations or arrests. The department may adopt rules to implement this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§108. Awareness and education on public health and safety matters**

The department shall develop and implement, or facilitate the development and implementation by a public or private entity of, programs, initiatives and campaigns focused on increasing the awareness of and educating the public on health and safety matters relating to the use of marijuana and marijuana products, including, but not limited to, programs, initiatives and campaigns focused on preventing and deterring the use of marijuana and marijuana products by persons under 21 years of age. Programs, initiatives and campaigns developed and implemented pursuant to this section may be funded with revenue in the Adult Use Marijuana Public Health and Safety Fund as provided in section 1001. The department may adopt rules to implement this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§109. Enhanced training for criminal justice agencies**

The department shall develop and implement, or facilitate the development and implementation by a public or private entity of, programs or initiatives providing enhanced training for criminal justice agencies in the requirements and enforcement of this chapter and the rules adopted pursuant to this chapter, including, but not limited to, programs providing grants to regional or local criminal justice agencies to train law enforcement officers in inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances under this chapter and chapter 2 and in drug recognition procedures and the general enforcement of the State's motor vehicle and criminal laws relating to the use of marijuana. Training programs or initiatives for criminal justice agencies developed and implemented pursuant to this section may be funded with revenue in the Adult Use Marijuana Public Health and Safety Fund established as provided in section 1001. The department may adopt rules to implement this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§110. Investigation of unlawful activity by criminal justice agency**

A criminal justice agency may investigate unlawful activity in relation to a marijuana establishment and may conduct a criminal history record check of a licensee or its employees during an investigation of unlawful activity in relation to a marijuana establishment. A criminal justice agency may investigate unlawful activity in relation to the personal use of marijuana or marijuana products or the home cultivation of marijuana for personal use as authorized under chapter 2.

### **§111. Cultivation, care or sale of marijuana by state or local agency prohibited**

A state, county or local agency or department, including, but not limited to, the department, the Department of Agriculture, Conservation and Forestry or a criminal justice agency, may not:

**1. Cultivation or care of marijuana or marijuana products prohibited:** Cultivate or otherwise care for or be required to cultivate or otherwise care for any marijuana or marijuana

products belonging to, forfeited by or seized from any licensee or person pursuant to this chapter or chapter 2 or pursuant to any other applicable criminal, civil or administrative laws or rules; or

**2. Sale of marijuana or marijuana products prohibited.** Sell or be required to sell marijuana or marijuana products belonging to, forfeited by or seized from any licensee or person pursuant to this chapter or chapter 2 or pursuant to any other applicable criminal, civil or administrative laws or rules or that are otherwise in the possession of the agency or department.

### **§112. Employment policies**

Notwithstanding any provision of this chapter or chapter 2 to the contrary, an employer:

**1. Marijuana in workplace.** Is not required to permit or accommodate the use, consumption, possession, trade, display, transportation, sale or cultivation of marijuana or marijuana products in the workplace;

**2. Workplace policies regarding marijuana use.** Is not prohibited from enacting and enforcing workplace policies restricting the use of marijuana and marijuana products by employees; and

**3. Discipline of employees.** Is not prohibited from disciplining employees who are under the influence of marijuana in the workplace in accordance with the employer's workplace policies regarding the use of marijuana and marijuana products by employees.

### **§113. Report to Legislature**

**1. Report required.** By February 15, 2019, and annually thereafter, the department and the Department of Agriculture, Conservation and Forestry shall jointly submit a report to the joint standing committee of the Legislature having authority over adult use marijuana matters as provided in this section.

**2. Report contents.** The report required under subsection 1 must, at a minimum, include the following information.

**A.** The number of applications for each type of license submitted to the department during the prior calendar year, including, if applicable, the number of applications for license renewals, and the number of each type of license conditionally approved by the department during the prior calendar year.

**B.** The total number of each type of active license issued by the department in the prior calendar year following municipal approval or municipal licensing of a conditionally approved licensee.

**C.** The total square footage of plant canopy approved by the department in active cultivation facility licenses in the prior calendar year, the percentage of active cultivation facility licenses by cultivation tier and, if applicable, the number of approved increases in

the maximum plant canopy allowed under a tier 4 cultivation facility license in the prior calendar year pursuant to section 305.

D. The total amount of application fees, the total amount of license fees and the total amount of sales tax revenue collected during the prior calendar year and the amount of the sales tax revenue returned to municipalities pursuant to Title 36, section 1818, subsection 5, paragraph A and B.

E. An overview of current adult use marijuana-related staffing at the department and at the Department of Agriculture, Conservation and Forestry and the cost to each department to regulate the adult use marijuana industry in the State during the prior calendar year and cost projections for the upcoming calendar year.

F. The total reported volume and value of adult use marijuana produced and sold by all cultivation facilities in the prior calendar year.

G. The total reported volume and value of adult use marijuana and adult use marijuana products sold by all marijuana stores and marijuana social clubs in the prior calendar year.

H. The number of inspections of licensed premises of licensees performed by the department and the Department of Agriculture, Conservation and Forestry during the prior calendar year and the results of such inspections, including, but not limited to, the number of inspections resulting in license violations and the percentage of licensees inspected during the prior calendar year.

I. The number of license violations committed by licensees during the prior calendar year and a breakdown of such violations into specific categories based on the type of violation and the outcome of the violation, including, but not limited to, the total amount of fines collected by the department and the percentage of total license violations resulting in the imposition of a fine, license suspension or license revocation.

J. Public health and safety data collected, received or analyzed by the department pursuant section 107.

K. Recommendations, including any suggested legislation, to address issues with the regulation of the adult use marijuana industry in the State encountered by the department or the Department of Agriculture, Conservation and Forestry in the prior calendar year.

**3. Authority to report out legislation.** After reviewing the report required under subsection 1, the joint standing committee of the Legislature having jurisdiction over adult use marijuana matters may report out legislation to implement any recommendations contained in the report or to address any other issues identified in the report.

## SUBCHAPTER 2

### GENERAL LICENSING REQUIREMENTS

#### §201. License types

The department, upon receipt of an application in the prescribed form that meets all applicable requirements for licensure under this chapter and the rules adopted pursuant to this chapter, may issue to the applicant one or more of the following licenses:

1. **Cultivation facility.** Consistent with the requirements and restrictions of subchapter 3, a cultivation facility license;

2. **Testing facility.** Consistent with section 202, subsection 11 and section 503, subsection 2, a testing facility license;

3. **Products manufacturing facility.** A products manufacturing facility license;

4. **Marijuana store.** A marijuana store license; or

5. **Marijuana social club.** Beginning June 1, 2019, a marijuana social club license.

Except as provided in section 303, the department may not impose any limitation on the number of each type of license that it issues to qualified applicants pursuant to this chapter.

#### §202. General licensing criteria

An applicant for a license to operate a marijuana establishment must, where applicable, meet each of the following requirements. Except as otherwise provided in this section, if the applicant is a business entity, all officers, directors, managers, members or partners must meet each of the requirements of this section. An applicant must disclose in or include with its application the names and addresses of the applicant and all natural persons and business entities having a direct or indirect financial interest in the applied-for license and the nature and extent of the financial interest held by each person or entity and, where applicable, the nature and extent of any financial interest the person or entity has in any other license applied for or issued under this chapter.

1. **21 years of age.** The applicant must be at least 21 years of age.

2. **Resident of State.** The applicant must be a resident of the State and must have been a resident of the State for a period of not less than the 6 months immediately preceding the date of the application. If the applicant is a business entity:

A. All officers, directors, managers, members or partners must be residents of the State and must have been residents of the State for a period of not less than the 6 months

immediately preceding the date of the application; and

B. A majority of the shares or ownership interests in the business entity must be held or controlled by natural persons who are residents of the State and have been residents of the State for a period of not less than the 6 months immediately preceding the date of the application.

This subsection does not apply to an applicant for a testing facility license.

**3. Incorporated in State.** If the applicant is a business entity, the business entity must be incorporated in the State or otherwise formed or organized under the laws of the State.

**4. No disqualifying drug offense.** The applicant may not have been convicted of a disqualifying drug offense.

**5. Not employee of state agency.** The applicant may not be employed by the department, the Department of Agriculture, Conservation and Forestry or any other state agency with regulatory authority under this chapter or under the rules adopted pursuant to this chapter.

**6. Not law enforcement officer or corrections officer.** The applicant may not be a law enforcement officer; a corrections officer, as defined in Title 25, section 2801-A, subsection 2; or any other natural person subject to the certification requirements of Title 25, chapter 341.

**7. No license revocation.** The applicant may not have had a license previously issued under this chapter revoked.

**8. No medical registry identification card or registration certificate revocation.** The applicant may not have had a registry identification card or registration certificate previously issued pursuant to the Maine Medical Use of Marijuana Act revoked.

**9. No revocation of other state marijuana license, permit, certificate or other government-issued authorization.** The applicant may not have had a license, permit, certificate or other government-issued authorization issued in another jurisdiction allowing the cultivation, manufacture, testing or sale of adult use or medical marijuana or adult use or medical marijuana products revoked.

**10. Criminal history record check.** The applicant must have submitted to a criminal history record check in accordance with the requirements of section 204.

**11. Testing facility license and interest independent.** If the applicant has applied for a testing facility license, the applicant may not be a registered primary caregiver or have an interest in a registered dispensary or in a cultivation facility, a products manufacturing facility, a marijuana store or a marijuana social club licensed under this chapter. If the applicant has applied for any license under this chapter that is not a testing facility license, the applicant may not have an interest in a testing facility licensed under this chapter. An applicant that otherwise meets the requirements for the issuance of a testing facility license under this chapter and the

requirements of this subsection may apply for and be issued multiple testing facility licenses. For purposes of this paragraph, "interest" means an ownership interest or partial ownership interest or any other type of financial interest, including, but not limited to, being an investor or serving in a management position.

**12. Compliance with application process; no false statement of material fact.** The applicant must have completed all application forms required by the department fully and truthfully and complied with all information requests of the department and the Department of Agriculture, Conservation and Forestry relating to the license application. The applicant may not have knowingly or recklessly made any false statement of material fact to the department or the Department of Agriculture, Conservation and Forestry in applying for a license under this chapter.

### **§203. Additional licensing considerations**

An applicant for a license to operate a marijuana establishment shall submit, and the department shall consider in determining whether to grant the license, the following information. If the applicant is a business entity, the applicant must submit the information required by this section for each officer, director, manager, member or partner.

**1. Other convictions.** The applicant shall submit information regarding the applicant's criminal convictions in this State or in another jurisdiction for any offense involving dishonesty, deception, misappropriation or fraud. The applicant may submit and the department shall consider if submitted any information regarding the applicant's criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, with special consideration given to the time between the applicant's last criminal conviction and the consideration by the department of the application for licensure.

**2. Tax compliance.** The applicant shall submit information regarding:

A. The applicant's history of paying income and other taxes owed to the State, to another jurisdiction, if applicable, and to the United States Internal Revenue Service over the 2 years immediately preceding the year in which the application is filed; and

B. Any outstanding tax liens assessed against the applicant within the 5 years immediately preceding the year in which the application is filed.

**3. Other state marijuana-related violations, penalties or fines.** If the applicant has held a license, permit, certificate or other government-issued authorization in another jurisdiction allowing the cultivation, manufacture, testing or sale of adult use or medical marijuana or adult use or medical marijuana products, the applicant shall submit information regarding any violations, penalties or fines assessed against the applicant in that other jurisdiction.



## **§204. Criminal history record check**

The department shall in accordance with this section request a criminal history record check for each applicant for a license under this chapter. If the applicant is a business entity, all officers, directors, managers, members or partners are required to submit to a criminal history record check under this section. A criminal history record check conducted pursuant to this section must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation.

**1. Record of public criminal history information required.** Criminal history record information obtained from the Maine Criminal Justice Information System pursuant to this section must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

**2. Other state and national criminal history record information required.** Criminal history record information obtained from the Federal Bureau of Investigation pursuant to this section must include other state and national criminal history record information.

**3. Fingerprinting.** An applicant shall submit to having fingerprints taken. The State Police, upon payment by the applicant of the fee required under subsection 4, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The bureau shall conduct the state and national criminal history record checks required under this section. Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this section must be paid over to the Treasurer of State, who shall apply the money to the expenses incurred by Department of Public Safety in the administration of this section.

**4. Fees.** The department shall by rule set the amount of the fee to be paid by an applicant under subsection 3 for each criminal history record check required to be performed under this section.

**5. Availability of criminal history record information for inspection and copying.** The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

**6. Use of criminal history record information.** State and national criminal history record information obtained by the department under this section may be used only for the purpose of screening an applicant for a license, a licensee under this chapter or as necessary for the issuance of an individual identification card under section 106.

**7. Confidentiality.** All criminal history record information obtained by the department pursuant to this section is confidential, is for the official use of the department only, and may not

be disseminated outside of the department or disclosed to any other person or entity except as provided in subsection 5.

**8. Criminal history record check on licensee may be required.** Subject to the requirements of this section, the department may at any time require a licensee to submit to a criminal history record check.

**9. Rules.** The department, after consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§205. Application process; issuance of license**

**1. Forms; payment of fees.** An applicant shall file an application for a license on forms required by the department for the type of license sought along with the appropriate application fee as determined by the department pursuant to section 207.

**2. Applications for multiple licenses.** Except as provided in section 202, subsection 11 and in section 303, an applicant may apply for and be granted multiple licenses of any license type under this chapter.

**3. Issuance of license to registered dispensary.** The department may issue a license to operate a marijuana establishment to an applicant that is a registered dispensary that otherwise meets all applicable requirements for and restrictions on licensure under this chapter.

**4. Issuance of conditional license.** Within 90 days of receipt of an application for a license to operate a marijuana establishment or for renewal of an existing license to operate a marijuana establishment, the department shall issue to the applicant a conditional license to operate the marijuana establishment if the applicant meets all applicable requirements for licensure under this chapter or shall deny the application in accordance with section 206.

**A.** A licensee that has been issued a conditional license by the department may not engage in the cultivation, manufacture, testing or sale of adult use marijuana or adult use marijuana products unless and until the department has issued an active license to the licensee pursuant to subsection 5.

**B.** If a licensee issued a conditional license by the department fails to obtain an active license from the department pursuant to subsection 5 within one year from the date of issuance of the conditional license, the conditional license expires. A conditional license may not be renewed.

**5. Issuance of active license upon municipal approval or municipal license and payment of license fee.** The department shall issue an active license to a licensee that has been issued a conditional license pursuant to subsection 4, has obtained municipal approval or a

municipal license as required by section 403, subsection 3 and has paid the applicable license fee pursuant to section 207.

A. Within 10 days of receiving notification of municipal approval or notification of the issuance of a municipal license and a copy of the submitted site plan as required by section 403, the department shall notify the licensee that municipal approval or the issuance of a municipal license has been confirmed and that the licensee must pay the applicable license fee in order for the department to issue an active license.

B. Except as provided in section 302, upon receipt of payment of the applicable licensee fee, the department shall issue an active license to the licensee. The license must specify the date of issuance, the period of licensure, the date of expiration of the license, the name of the licensee and the address of the licensed premises.

**6. Each license separate.** Each license issued by the department to an applicant under this chapter is separate and distinct from any other license issued by the department to that same applicant under this chapter. A person must obtain separate licenses under this chapter for each proposed geographical location of any type of marijuana establishment.

**7. Licensee must maintain possession of premises.** As a condition of licensure, the department shall require each licensee to at all times maintain possession of the licensed premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. If a licensee fails to maintain possession of the licensed premises, the licensee must immediately cease operation and may apply to the department for relocation of the licensed premises pursuant to section 211 or may terminate its license pursuant to section 212.

## **§206. Denial of license**

**1. Denial for good cause.** The department may, for good cause, deny an application for an initial license, a license renewal, a transfer of ownership interests or a relocation of a licensed premises.

**2. Good cause defined.** As used in this section, “good cause” means a finding by the department, where applicable, that:

A. The applicant or licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, any rules adopted pursuant to this chapter or any other applicable state or local law, rule or regulation; or

B. The applicant or licensee has failed to comply with any special terms, consent decree or conditions placed upon the previously issued license pursuant to an order of the department or the municipality in which the licensed premises are located.

**3. Notification of denial and right to appeal.** Upon denial of a license application, the department shall notify the applicant in writing of the denial, the basis for the denial and the

applicant's right to appeal the denial to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

### **§207. Application fees; license fees**

The department, in accordance with the provisions of this section, shall adopt by rule a licensing fee schedule, the revenue from which must be designed to meet, but not to exceed, the estimated licensing, enforcement and other administrative costs of the department and the Department of Agriculture, Conservation and Forestry under this chapter. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**1. Fees for cultivation facilities.** For a cultivation facility license, the department shall require payment of a nonrefundable license application fee and a license fee as follows.

A. For a tier 1 cultivation facility license, a nonrefundable application fee of \$100 and a license fee as follows:

(1) If the applicant has designated on its cultivation plan a plant count-based method of cultivation, a license fee of not more than \$9 per mature marijuana plant for an outdoor cultivation facility and not more than \$17 per mature marijuana plant for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; or

(2) If the applicant has designated on its cultivation plan a plant canopy-based method of cultivation, a license fee of not more than \$250 for an outdoor cultivation facility and not more than \$500 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.

B. For a tier 2 cultivation facility license, a nonrefundable application fee of \$500 and a license fee of not more than \$1,500 for an outdoor cultivation facility and not more than \$3,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.

C. For a tier 3 cultivation facility license, a nonrefundable application fee of \$500 and a license fee of not more than \$5,000 for an outdoor cultivation facility and not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.

D. For a tier 4 cultivation facility license, a nonrefundable application fee of \$500 and a license fee of not more than \$15,000 for an outdoor cultivation facility and not more than \$30,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas, except that, for a tier 4 cultivation facility license for which an increased amount of licensed plant canopy has been approved by the department pursuant to section 305, for each approved increase in the amount of licensed plant canopy, the department may increase the maximum license fee by not more than \$5,000 for an

outdoor cultivation facility and by not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas.

**2. Fees for products manufacturing facilities, marijuana stores and marijuana social clubs.** For a products manufacturing facility license, a marijuana store license or a marijuana social club license, the department shall require payment of a nonrefundable license application fee of \$250 and a license fee of no more than \$2,500.

**3. Fees for testing facilities.** For a testing facility license, the department shall require payment of a nonrefundable license application fee of \$250 and a license fee of no more than \$1,000.

**4. Payment of fees.** An applicant for a license under this chapter shall pay the nonrefundable application fee required by the department at the time that an application for licensure is submitted to the department for processing. A licensee shall pay the license fee required by the department in accordance with section 205, subsection 5.

**5. Return of fees prohibited.** The department may not return to or reimburse a licensee any portion of an application or license fee paid by the applicant or licensee, regardless of whether the licensee has voluntarily terminated its license pursuant to section 212 or the department has suspended or revoked the licensee's license in accordance with the provisions of subchapter 8.

## **§208. License term**

A conditional license issued by the department pursuant to section 205, subsection 4 is effective for a period of one year from the date of issuance and may not be renewed. An active license issued by the department pursuant to section 205, subsection 5 is effective for a period of one year from the date of issuance and may be renewed pursuant to section 209.

## **§209. License renewal**

**1. Notification of expiration date.** Ninety days prior to the expiration of an existing license, the department shall notify the licensee of the expiration date and the opportunity for renewal. Except as otherwise provided in this section, a licensee seeking to renew an existing license must file an application for renewal with the department, on forms prepared and furnished by the department, not less than 30 days prior to the date of expiration.

**2. Extension for good cause shown; late applications.** Notwithstanding subsection 1, the department may in its discretion and for good cause shown accept an application for renewal of an existing license less than 30 days prior to the date of expiration of the license upon the payment of a nonrefundable late application fee to the department. The department may not accept an application for renewal of a license after the date of expiration of that license.

**3. Operation under expired license.** A licensee that files an application for renewal of its existing license and pays all required fees under this section prior to the expiration of the license may continue to operate the marijuana establishment under that license notwithstanding its expiration until such time as the department takes final action on the renewal application, unless the department suspends or revokes the license in accordance with the provisions of subchapter 8 prior to taking final action on the renewal application.

**4. Expired license; cessation of activity and forfeiture of marijuana and marijuana products.** Except as provided in subsection 3, a licensee whose license has expired must immediately cease all activities relating to the operation of the marijuana establishment under that license and ensure that all adult use marijuana and adult use marijuana products cultivated, manufactured or otherwise in the possession of the licensee pursuant to that license are forfeited to the department for destruction.

**5. Renewal application process.** The department shall by rule set forth requirements for the submission, processing and approval of a renewal application, which must include, but are not limited to, setting of a reasonable nonrefundable renewal application fee and nonrefundable late renewal application fee and a requirement that an applicant for renewal demonstrate continued compliance with all applicable licensing criteria under this chapter, including the obtaining of municipal approval or a municipal license as required by section 403, subsection 3, but not including submission of the applicant to a criminal record check under section 204 unless specifically required to do so by the department. The department may not issue a renewed license under this section until the licensee obtains municipal approval or a municipal license as required by section 403, subsection 3 and pays the applicable license fee required under section 207.

#### **§210. Transfer of ownership**

**1. Transfer application.** A licensee may apply to the department, on forms prepared and furnished by the department, for approval to transfer ownership interests in the license, including, but not limited to, a transfer of only a portion of the financial interest in the license.

**2. Rules.** The department shall by rule adopt requirements for the submission of a license transfer application and standards for the approval of a transfer application, including, but not limited to, provisions relating to municipal approval of a transfer of ownership interests in a license and provisions requiring any person assuming an ownership interest in the license to demonstrate compliance with all applicable requirements for licensure under this chapter and the rules adopted under this chapter. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§211. Relocation of licensed premises**

**1. Relocation application.** A licensee may apply to the department, on forms prepared and furnished by the department, for approval to relocate the licensee's licensed premises.

**2. Municipal approval or licensing required.** Within 10 days of receiving notification of municipal approval or notification of the issuance of a municipal license as required by section 403, subsection 3 by the municipality in which the relocated premises are to be located, the department shall notify the licensee that municipal approval or the issuance of a municipal license has been confirmed for the relocation and that the licensee may proceed with relocation, and the department shall issue to the licensee an updated license specifying the address of the new premises.

**3. Effect on license term.** The relocation of a licensed premises of a licensee may not extend or otherwise modify the license term of the license subject to relocation.

**4. Rules.** The department shall by rule adopt requirements for the submission of a license relocation application and standards for the approval of a relocation application. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

## **§212. Termination of license**

**1. Notification of termination required.** A licensee may not permanently abandon any licensed premises of the licensee or otherwise permanently terminate operations under its license, whether voluntarily or pursuant to a license revocation in accordance with subchapter 8, without notifying the department and the municipality in which the licensed premises are located at least 48 hours in advance of such abandonment or termination.

**2. Forfeiture and destruction of marijuana and marijuana products.** Prior to abandoning the licensed premise or terminating operations, the licensee must provide the department and the municipality with a full accounting of all adult use marijuana and adult use marijuana products located within the licensed premises and must forfeit such marijuana and marijuana products to the department for destruction.

## **§213. Notice of new owner, officer, manager or employee**

Before any proposed new owner, officer, manager or employee may own, manage, work for or otherwise associate with a licensee, the licensee shall notify the department in writing of the name, address and date of birth of the proposed new owner, officer, manager or employee and the proposed new owner, officer, manager or employee must submit to a criminal history record check pursuant to section 204, obtain an identification card prior pursuant to section 106 and, in the case of a new owner or other person assuming an ownership interest in the license, obtain approval for the transfer of ownership interests pursuant to section 210.

## **§214. Inactive licenses**

The department may revoke or refuse to renew any license if it determines that the licensed premises have been inactive, without good cause, for a period of one year or more.

**§215. Municipal notification**

The department shall notify a municipality within 14 days of the date it approves, renews, denies, suspends or revokes the license of a licensee located or proposed to be located in the municipality; fines a licensee located within the municipality; approves relocation of a licensed premises to or from the municipality; or approves a transfer of ownership interest in a licensee located within the municipality.

**SUBCHAPTER 3**

**LICENSING REQUIREMENTS FOR CULTIVATION FACILITIES**

**§301. Cultivation facility license types**

Subject to the requirements and limitations of this subchapter and the requirements of subchapter 2, the department may issue to an applicant any of the following types of cultivation facility licenses.

**1. Tier 1 cultivation facility license.** A tier 1 cultivation facility license, allowing cultivation by a licensee of:

- A. Not more than 30 mature marijuana plants and an unlimited number of immature plants and seedlings; or
- B. Not more than 500 square feet of plant canopy.

An applicant for a tier 1 cultivation facility license shall designate on its cultivation plan whether the license sought is for a plant count-based method of cultivation under paragraph A or plant canopy-based method of cultivation under paragraph B. Once licensed, a tier 1 cultivation facility licensee may not amend such designated method of cultivation except at the time such license is renewed in accordance with section 209.

**2. Tier 2 cultivation facility license.** A tier 2 cultivation facility license, allowing cultivation by a licensee of not more than 3,000 square feet of plant canopy;

**3. Tier 3 cultivation facility license.** A tier 3 cultivation facility license, allowing cultivation by a licensee of not more than 10,000 square feet of plant canopy; and

**4. Tier 4 cultivation facility license.** A tier 4 cultivation facility license, allowing cultivation by a licensee of not more than 30,000 square feet of plant canopy, except as provided in section 305.



### **§302. Additional information required for application for cultivation facility license**

In addition to all information required to be submitted to the department pursuant to subchapter 2 and the rules relating to licensure adopted pursuant to this chapter, an applicant for a cultivation facility license, shall submit to the department the following information.

**1. Operating plan.** The applicant shall submit an operating plan demonstrating the proposed size and layout of the cultivation facility; plans for wastewater and waste disposal for the cultivation facility; plans for providing electricity, water and other utilities necessary for the normal operation of the cultivation facility; plans for securing the proposed facility and otherwise meeting applicable security requirements under this chapter and the rules adopted under this chapter; and plans for compliance with applicable building code and federal and state environmental requirements.

**2. Cultivation plan.** The applicant shall submit a cultivation plan demonstrating the proposed size and layout of the cultivation areas at the cultivation facility and designating:

A. The total amount of plant canopy or, in the case of a plant count-based tier 1 cultivation facility license, the number of mature marijuana plants proposed under the license; and

B. The total percentage or square footage of plant canopy designated under paragraph A or, in the case of a plant count-based tier 1 cultivation facility license, the areas within the cultivation facility the applicant proposes to dedicate to the cultivation of mother plants, clones, seedlings, and immature plants and the total percentage or square footage of plant canopy or areas within the cultivation facility the applicant proposes to dedicate to the cultivation of mature marijuana plants.

**3. Updated operation and cultivation plans required prior to issuance of active license.** Notwithstanding section 205, subsection 5, paragraph B, the department may not issue an active license to operate a cultivation facility unless the applicant has obtained municipal approval or a municipal license as required by section 403, subsection 3, has paid the applicable license fee pursuant to section 207 and has submitted to the department an updated operating plan and an updated cultivation plan based upon the actual premises to be licensed.

### **§303. Application for multiple cultivation facility licenses**

The department may not issue a cultivation facility license or renew an existing cultivation facility license under this chapter if the issuance or renewal of such license would result in the applicant or a person with a direct or indirect financial interest in the license holding or having a direct or indirect financial interest in more than three cultivation facility licenses or in multiple cultivation facility licenses with a combined total licensed amount of plant canopy exceeding 50,000 square feet, except where such exceedance is solely attributable to an approved increase in the maximum licensed amount of plant canopy authorized under a tier 4 cultivation facility license pursuant to section 305.

### **§304. Increase in cultivation tier upon renewal**

An applicant seeking renewal of a cultivation facility license may apply to increase its license to a higher tier cultivation facility license in accordance with this section.

**1. Approval criteria.** The department may issue the requested higher tier license if the applicant otherwise meets all applicable requirements for continued licensure under this chapter and the rules adopted pursuant to this chapter and the licensee has demonstrated to the department's satisfaction that:

A. The licensee has over the current period of licensure sold at least 85% of the adult use marijuana cultivated by the licensee at its cultivation facility; and

B. The approval of the proposed higher tier license will not cause the applicant to exceed the combined plant canopy limitations in section 303.

**2. Consideration of renewal of current license tier if approval criteria not met.** If the department determines that the applicant has failed to satisfy the requirements for a proposed higher tier license under this section, the department must consider renewing the applicant's license at the previously licensed cultivation tier.

### **§305. Increase in maximum licensed plant canopy upon renewal of tier 4 license**

Not more than once every 2 years, an applicant seeking renewal of a tier 4 cultivation facility license may apply to increase the maximum licensed amount of plant canopy allowable under its previously issued tier 4 cultivation facility license by 10,000 square feet in accordance with this section.

**1. Approval criteria.** The department may approve the requested increase if the applicant otherwise meets all applicable requirements for continued licensure under this chapter and the rules adopted pursuant to this chapter and the licensee has demonstrated to the department's satisfaction that the licensee has over the past two year period of licensure sold at least 85% of the adult use marijuana cultivated by the licensee at its cultivation facility.

**2. Consideration of renewal of current licensed amount of plant canopy if approval criteria not met.** If the department determines that the applicant has failed to satisfy the requirements for the requested increase in the amount of licensed plant canopy under this section, the department shall consider renewing the applicant's tier 4 license at the previously licensed amount of plant canopy.

## SUBCHAPTER 4

### MUNICIPAL REGULATION OF MARIJUANA ESTABLISHMENTS

#### §401. Local control; home rule authority

In accordance with this subchapter and pursuant to the home rule authority granted under the Maine Constitution, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate marijuana establishments within the municipality.

#### §402. Land use regulations

A municipality may adopt reasonable land use regulations applicable to the location of marijuana establishments within the municipality. Notwithstanding any other provision of law to the contrary, a municipal land use ordinance regulating marijuana establishments within the municipality is not subject to the review or approval of any state agency or department.

#### §403. Municipal licensing or approval of marijuana establishments

1. Licensing requirements, standards and restrictions. A municipality may adopt reasonable municipal licensing requirements and standards applicable to the approval, location and operation of marijuana establishments within the municipality provided that such requirements and standards are not more restrictive than and do not otherwise conflict with the requirements and standards specifically established in this chapter or in the rules adopted pursuant to this chapter. A municipality may impose additional reasonable licensing requirements and standards applicable to matters not addressed in this chapter on in the rules adopted pursuant to this chapter.

A. A municipality may also adopt:

(1) Reasonable municipal restrictions on the size, content and location of signage and advertising used by or erected on behalf of a marijuana establishment within the municipality, except that such restrictions must prohibit the use or placement of signage or advertising by or on behalf of a marijuana establishment within 1,000 feet of the property line of a preexisting public or private school. A municipality may choose to prohibit the use or placement of signage or advertising by or on behalf of a marijuana establishment at distances greater than 1,000 feet from the property line of a preexisting public or private school;

(2) A municipal licensing fee schedule for marijuana establishments in accordance with Title 30-A, section 3702; and

(3) Reasonable municipal requirements concerning odor control measures applicable to the operation of marijuana establishments within the municipality.

B. A municipality is not required to adopt municipal licensing requirements and standards applicable to the approval of, location or operation of marijuana establishments within the municipality prior to denying a request for approval or a license to operate a marijuana establishment within the municipality as required under subsection 3.

**2. Site plan required.** In determining whether to approve or grant a municipal license for the operation of a marijuana establishment, a municipality must require that the applicant submit to the municipality a site plan that designates the location within the municipality that the marijuana establishment is proposed to be located and that demonstrates the size and layout of the proposed marijuana establishment. If the municipality approves or grants a municipal license for the operation of the marijuana establishment, it shall provide the department with a copy of the submitted site plan.

**3. Municipal approval or municipal license required.** A marijuana establishment may not operate within a municipality without the approval of the municipality or a municipal license issued by the municipality and an active license issued by the department pursuant to section 205, subsection 5.

A. A municipality may not approve or issue a municipal license to a marijuana establishment:

(1) If the marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school. A municipality may choose to prohibit the location of a marijuana establishment at distances greater than 1,000 feet from the property line of a preexisting public or private school; or

(2) If the applicant has not demonstrated possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

B. The failure of a municipality to act on a request for approval or a license to operate a marijuana establishment within the municipality may not be construed to satisfy the municipal approval or municipal licensure requirement of this subsection.

C. If a municipality at any time withdraws its approval for a marijuana establishment or revokes a municipal license issued to a marijuana establishment, the marijuana establishment must immediately cease operation and may apply to the department for relocation of the licensed premises pursuant to section 211.

#### **§404. Limitation or prohibition of marijuana establishments**

A municipality may prohibit the operation of some or all types of marijuana establishments within the municipality and may limit the number of any type of marijuana establishment that may be approved or licensed to operate within the municipality.

#### **§405. Municipal regulation of home cultivation of marijuana**

A municipality may adopt reasonable odor control measures applicable to home cultivation operations conducted in accordance with chapter 2 that are located within the municipality and may adopt reasonable requirements applicable to the disposal or destruction of marijuana produced by such home cultivation operations.

#### **§406. Information requests**

A municipality may request that the department provide any information obtained by the department pursuant to the provisions of subchapters 2 or 3 that the municipality determines necessary for administration of its approval or licensing process under this subchapter. Except where such information is confidential pursuant to law or rule, the department shall in a timely manner provide to the municipality the information requested pursuant to this section.

#### **§407. Notification to department**

A municipality shall notify the department within 14 days of the date it approves or denies the location of a marijuana establishment within the municipality; issues or renews a license for the operation of a marijuana establishment within the municipality; withdraws such approval or suspends or revokes such license; approves relocation of a licensed premises to the municipality; or approves a transfer of ownership interests in a licensee located within the municipality.

### **SUBCHAPTER 5**

#### **OPERATING REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS**

#### **§501. Operation of cultivation facilities**

A cultivation facility licensed under this chapter must be operated in accordance with the provisions of this section and the rules adopted pursuant to this section.

**1. Cultivation of adult use marijuana for sale and distribution to other licensees only.** Except as otherwise provided in this section, a cultivation facility may only cultivate adult use marijuana for sale and distribution to products manufacturing facilities, marijuana stores or to other cultivation facilities licensed under this chapter.

**2. Retail sale of adult use marijuana without separate marijuana store license prohibited.** A cultivation facility may not sell or offer to sell adult use marijuana to consumers unless the cultivation facility licensee obtains from the department a separate license to operate a marijuana store and otherwise complies with all applicable requirements under this chapter and the rules adopted under this chapter concerning the operation of marijuana stores. A cultivation facility may not give away adult use marijuana, adult use marijuana products or marijuana plants to a consumer.

**3. Marijuana extraction without separate products manufacturing facility license prohibited.** A cultivation facility may not use water, lipids, gases or solvents to extract marijuana concentrate from marijuana unless the cultivation facility licensee has obtained from the department a separate license to operate a products manufacturing facility and otherwise meets the requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of a products manufacturing facility and concerning marijuana extraction.

**4. Change to operation plan or cultivation plan.** Any material change to a cultivation facility's operation plan or cultivation plan, including, but not limited to, a change in the percentage or square footage of plant canopy dedicated to the cultivation of mature marijuana plants, must be submitted to the department in writing prior to implementation of such change.

**5. Requirements for outdoor cultivation.** The Department of Agriculture, Conservation and Forestry shall adopt rules concerning the outdoor cultivation of adult use marijuana by a cultivation facility licensee, including, but not limited to, security requirements specific to outdoor cultivation operations, requirements for shielding outdoor cultivation operations from public view and requirements that outdoor cultivation operations by different licensees not share a common wall or fence and be separated by at least 20 feet. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**6. Tracking.** A cultivation facility licensee shall track the marijuana it cultivates from immature plant to the point that the marijuana is delivered or transferred to a products manufacturing facility, a testing facility or a marijuana store or is disposed of or destroyed.

## **§502. Operation of products manufacturing facilities**

A products manufacturing facility licensed under this chapter must be operated in accordance with the provisions of this section and the rules adopted pursuant to this section.

**1. Manufacture for sale or distribution to other licensees only.** Except as otherwise provided in this section, a products manufacturing facility may only manufacture adult use marijuana products for sale or distribution to marijuana stores, marijuana social clubs or to other products manufacturing facilities licensed under this chapter.

**2. Retail sale of adult use marijuana without separate marijuana store or marijuana social club license prohibited.** A products manufacturing facility may not sell or offer to sell adult use marijuana products to consumers unless the products manufacturing facility licensee obtains from the department a separate license to operate a marijuana store or a marijuana social club and otherwise complies with all applicable requirements under this chapter and the rules adopted under this chapter concerning the operation of marijuana stores or marijuana social clubs. A products manufacturing facility may not give away adult use marijuana, adult use marijuana products or marijuana plants to a consumer.

**3. Cultivation of marijuana without separate cultivation facility license prohibited.**

A products manufacturing facility shall purchase all marijuana necessary for its manufacturing processes from a cultivation facility and may not engage in the cultivation of marijuana for use in its manufacturing processes unless the products manufacturing facility licensee obtains from the department a separate license to operate a cultivation facility and otherwise meets all applicable requirements under this chapter and under the rules adopted pursuant to this chapter concerning the operation of cultivation facilities.

**4. Sampling by employees.** A products manufacturing facility licensee and its employees may sample adult use marijuana products manufactured at the licensed premises for the purposes of product quality control and product research and development only and the licensee may not otherwise allow the consumption of adult use marijuana or adult use marijuana products within the licensed premises.

**5. Sampling by other licensees.** A products manufacturing facility may provide samples of adult use marijuana products manufactured at the licensed premises to a marijuana store or a marijuana social club for business or marketing purposes only. Samples provided by a products manufacturing facility to other licensees under this subsection may not be consumed within the licensed premises of the products manufacturing facility.

**6. Extraction.** This subsection governs the extraction of marijuana concentrate from marijuana by a products manufacturing facility.

A. Subject to the requirements of paragraph C, if applicable, a products manufacturing facility may extract marijuana concentrate from marijuana using water, lipids, gases or any of the following solvents: acetone, butane, carbon dioxide, ethanol, heptane, isopropanol or propane.

B. A products manufacturing facility may extract marijuana concentrate from marijuana using a solvent that is not an inherently hazardous substance and that is not listed in paragraph A only with the written approval of the department.

C. A products manufacturing facility that plans to engage in marijuana extraction involving the use of any inherently hazardous substance must submit to the department a request for approval of the extraction method that includes a description of the extraction method the facility plans to engage in and a certification from an industrial hygienist or professional engineer following a review of the facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems. The department shall, within 14 days of receipt of the request, notify the products manufacturing facility in writing whether the request is approved or denied. A products manufacturing facility may not engage in marijuana extraction involving the use of any inherently hazardous substance without the written approval of the department issued pursuant to this paragraph.

**7. Compliance with packaging, labeling and health and safety requirements.** All adult use marijuana products sold or distributed by a products manufacturing facility must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted under subchapter 7.

**8. Compliance with sanitary standards; commercial kitchen license required.** Any areas within the licensed premises of a products manufacturing facility in which adult use marijuana products are manufactured must meet all sanitary standards adopted by rule by the Department of Agriculture, Conservation and Forestry.

**9. Commercial kitchen license requirement.** The Department of Agriculture, Conservation and Forestry shall adopt rules requiring certain areas within the licensed premises of a products manufacturing facility in which adult use marijuana products are manufactured to be licensed as commercial kitchens based upon the types of manufacturing processes conducted within such areas.

**10. Refrigeration.** All adult use marijuana products that require refrigeration to prevent spoilage must be stored and transported by a products manufacturing facility licensee in a refrigerated environment as required by rule adopted by the Department of Agriculture, Conservation and Forestry.

**11. Testing.** A products manufacturing facility may test marijuana and marijuana products within its licensed premises for research and development purposes, quality control purposes and health and safety purposes. Testing performed by a products manufacturing facility within its licensed premises is not subject to the requirements for testing facilities under section 503, but does not satisfy the mandatory testing requirements of subchapter 6.

**12. Tracking.** A products manufacturing facility licensee shall track the marijuana it uses in its manufacturing processes from the point the marijuana is transferred from or delivered to the products manufacturing facility by a cultivation facility to the point the marijuana or a marijuana product produced from such marijuana is delivered or transferred to another products manufacturing facility, a testing facility, a marijuana store or a marijuana social club or is disposed of or destroyed.

### **§503. Operation of testing facilities**

A testing facility licensed under this chapter must be operated in accordance with the provisions of this section and the rules adopted pursuant to this section.

**1. Development, research and testing of marijuana, marijuana products and other substances.** A testing facility may develop, research and test marijuana and marijuana products for that facility; for another licensee; for a person who intends to use the marijuana or marijuana product for personal use as allowed under chapter 2; or for a qualifying patient, a primary caregiver, a registered primary caregiver or a registered dispensary. Nothing in this chapter or in the rules adopted pursuant to this chapter shall prevent a testing facility from developing,



researching or testing substances that are not marijuana or marijuana products for that facility or for another person.

**2. Certification; accreditation and provisional licensure; compliance with operational and technical requirements.** A testing facility may not commence or continue operation unless the testing facility:

A. Is certified for operation by the Department of Health and Human Services, Maine Center for Disease Control and Prevention, in accordance with rules adopted by the Department of Agriculture, Conservation and Forestry after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, which must allow for inspection of the proposed or operational testing facility by the Department of Agriculture, Conservation and Forestry and the Department of Health and Human Services, Maine Center for Disease Control and Prevention;

B. Except as otherwise provided in this paragraph, is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the Department of Agriculture, Conservation and Forestry. The Department of Agriculture, Conservation and Forestry shall adopt rules regarding the scope of certification, registration or accreditation required for licensure as a testing facility.

(1) The department may issue a full testing facility license to an applicant that meets all applicable requirements of this chapter and rules adopted under this chapter and that has obtained accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization from a 3rd-party accrediting body or that is certified, registered or accredited by an approved organization.

(2) The department may issue a provisional testing facility license to an applicant that otherwise meets all applicable requirements of this chapter and rules adopted under this chapter and that has applied for but not yet obtained accreditation from a 3rd-party accrediting body or that has applied for but not yet obtained certification, registration or accreditation from an approved organization. The department may not renew a provisional testing facility license more than once.

(3) Both full and provisional testing facility licenses issued by the department in accordance with this paragraph are conditional licenses and require local approval or the issuance of a local license and payment of the applicable license fee pursuant to section 205, subsection 5 before the department may issue an active license to operate a testing facility; and

C. Is determined by the Department of Agriculture, Conservation and Forestry to meet all operational and technical requirements for testing facilities under this chapter and the rules adopted under this chapter.

**3. Compliance with testing protocols, standards and criteria.** A testing facility shall follow all testing protocols, standards and criteria adopted by rule by the Department of Agriculture, Conservation and Forestry for the testing of different forms of marijuana and marijuana products; determining batch size; sampling; testing validity; and approval and disapproval of tested marijuana and marijuana products.

**4. Remediation and retesting.** If a testing facility determines that a sample of adult use marijuana or an adult use marijuana product has failed a mandatory test required under section 602, the testing facility shall offer to the owner of that sample an opportunity for remediation and retesting in accordance with rules adopted by the Department of Agriculture, Conservation and Forestry.

**5. Recordkeeping.** A testing facility shall maintain records of all business transactions and testing results in accordance with the record-keeping requirements of section 511 and section 602, subsection 2 and in accordance with applicable standards for licensing and accreditation under subsection 2 and testing protocols, standards and criteria adopted by the Department of Agriculture, Conservation and Forestry under subsection 3.

**6. Disposal of marijuana and marijuana products.** A testing facility shall dispose of or destroy used, unused and waste marijuana and marijuana products in accordance with rules adopted by the Department of Agriculture, Conservation and Forestry.

**7. Notification of test results.** A testing facility shall notify the Department of Agriculture, Conservation and Forestry of test results in accordance with section 603 and 605.

**8. Tracking.** A testing facility shall track all marijuana or marijuana products it receives from a licensee for testing purposes from the point that the marijuana or marijuana products are delivered or transferred to the testing facility to the point that the marijuana or marijuana products are disposed of or destroyed by the testing facility.

**9. Independence of testing facility interest.** A person with an interest in a testing facility licensed under this chapter may not be a registered primary caregiver or have an interest in a registered dispensary or in a marijuana store, a marijuana social club, a cultivation facility or a products manufacturing facility licensed under this chapter, but may hold or have an interest in multiple testing facility licenses. A person who is a registered primary caregiver or who has an interest in a registered dispensary or in a marijuana store, a social club, a cultivation facility or a products manufacturing facility licensed under this chapter may not have an interest in a testing facility licensed under this chapter. As used in this subsection, "interest" has the same meaning as in section 202, subsection 11.

**10. Rules.** The Department of Agriculture, Conservation and Forestry shall adopt rules regarding the testing of marijuana and marijuana products by testing facilities pursuant to this chapter, including, but not limited to, rules establishing acceptable testing and research practices for testing facilities, including, but not limited to, provisions relating to testing practices, methods and standards; remediation and retesting procedures; quality control analysis; equipment certification and calibration; chemical identification; testing facility record-keeping.

documentation and business practices; disposal of used, unused and waste marijuana and marijuana products; and reporting of test results. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§504. Operation of marijuana stores**

A marijuana store licensed under this chapter must be operated in accordance with the provisions of this section and the rules adopted pursuant to this section.

##### **1. Products authorized for sale. A marijuana store may sell only:**

A. Adult use marijuana, adult use marijuana products and marijuana paraphernalia;

B. Immature marijuana plants and seedlings, but not a mature marijuana plant;

C. Consumable products not containing marijuana, including, but not limited to, sodas, candies and baked goods, except that a marijuana store may not sell or give away any consumable product containing tobacco or alcohol; and

D. Any other non-consumable products, including, but not limited to, apparel and marijuana-related products.

##### **2. Prohibitions. A marijuana store may not:**

A. Except for non-edible adult use marijuana products not containing THC, sell to any person in any individual sales transaction an amount of adult use marijuana, adult use marijuana products or immature marijuana plants or seedlings that exceeds the personal use limitations of chapter 2, section 1501, subsection 1;

B. Give away adult use marijuana, adult use marijuana products or marijuana plants;

C. Sell adult use marijuana, adult use marijuana products or marijuana plants using an automated dispensing or vending machine; or

D. Sell adult use marijuana or adult use marijuana products to a person who is visibly intoxicated at the time of purchase.

**3. Drive-through sales allowed.** Except where prohibited or restricted by local ordinance, rule or regulation, a marijuana store may sell adult use marijuana and adult use marijuana products to a consumer using a drive-through sales window.

**4. Internet-based sales and deliveries allowed.** Except where prohibited or restricted by local ordinance, rule or regulation, a marijuana store may sell adult use marijuana and adult use marijuana products to a consumer using an Internet-based sales platform or a delivery service as long as the consumer's identity and proof of age is verified at the time of purchase and at the time the items purchased are transferred to the consumer. Items ordered from a marijuana store

by a consumer for delivery must be delivered to the consumer by an employee of the marijuana store licensee.

**5. Compliance with packaging, labeling and health and safety requirements.** All adult use marijuana and adult use marijuana products sold or offered for sale at a marijuana store must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted under subchapter 7.

**6. Restricted access areas.** A marijuana store licensee must ensure that persons under 21 years of age do not enter a restricted access area within the store. A person under 21 years of age may not enter a restricted access area within a marijuana store.

**7. Verification of purchaser's age.** A person must be 21 years of age or older to make a purchase in a marijuana store. A marijuana store may not sell any item to a person under 21 years of age.

A. Prior to initiating a sale, an employee of the marijuana store shall verify that the purchaser has a valid government-issued photographic identification card, or other acceptable photographic identification, demonstrating that the purchaser is 21 years of age or older.

B. The department shall by rule determine the forms of photographic identification that a marijuana store may accept when verifying a purchaser's age.

**8. Prohibition on commingled sale of adult use marijuana and adult use marijuana products and medical marijuana and medical marijuana products.** A marijuana store licensee that is also a primary caregiver, a registered primary caregiver or a registered dispensary may not sell or offer for sale adult use marijuana or adult use marijuana products within the same licensed premises as the licensee sells or offers for sale medical marijuana or medical marijuana products.

**9. Signage, marketing and advertising.** All signage used by and all marketing and advertising conducted by or on behalf of a marijuana store must comply with the requirements of section 704, subsection and the rules adopted under section 704, subsection 2.

**10. Sales tax.** A marijuana store licensee shall ensure that all sales taxes imposed on the sale of adult use marijuana and adult use marijuana products to a consumer by a marijuana store pursuant to Title 36, section 1818 are collected and remitted to the department.

A. The department may require a marijuana store licensee to post a bond or other guarantee to ensure collection and remittance of the sales tax by the licensee.

B. The department shall adopt rules to address the failure of a marijuana store to make the sales tax payments as required by this subsection, including, but not limited to, the imposition of fines and other penalties, including, but not limited to, suspension or

revocation of the marijuana store's license. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**11. Tracking.** A marijuana store licensee shall track all marijuana and marijuana products from the point that the marijuana or marijuana products are transferred from or delivered to the marijuana store by a cultivation facility or a products manufacturing facility to the point that the marijuana or marijuana products are sold to a consumer, transferred or delivered to a testing facility or disposed of or destroyed.

## **§505. Operation of marijuana social clubs**

A marijuana social club licensed under this chapter must be operated in accordance with the provisions of this section and the rules adopted pursuant to this section.

**1. Products authorized for sale.** A marijuana social club may sell only:

A. Adult use marijuana products and marijuana paraphernalia;

B. Consumable products not containing marijuana, including, but not limited to, sodas, candies and baked goods, except that a marijuana social club may not sell or give away any consumable product containing tobacco or alcohol; and

C. Any other non-consumable products, including, but not limited to, apparel and marijuana-related products.

**2. Prohibitions.** A marijuana social club may not:

A. Give away adult use marijuana products and may not sell or give away adult use marijuana or marijuana plants;

B. Except for non-edible adult use marijuana products not containing THC, sell to any person in any individual sales transaction an amount of adult use marijuana products that exceeds the personal use limitations of chapter 2, section 1501, subsection 1;

C. Allow the smoking of marijuana or marijuana products on the licensed premises of the marijuana social club in violation of the provisions of Title 22, chapter 262;

D. Allow a person to consume marijuana or marijuana products not purchased from the marijuana social club on the licensed premises of the marijuana social club. A person may not consume marijuana or marijuana products not purchased from the marijuana social club on the licensed premises of the marijuana social club;

E. Sell adult use marijuana products using an automated dispensing or vending machine;  
or

F. Sell adult use marijuana products to a person who is visibly intoxicated at the time of purchase.

**3. Consumption of marijuana products on premises.** All adult use marijuana products purchased by a consumer at a marijuana social club must be consumed or disposed of on the licensed premises and may not be taken off the licensed premises.

**4. Compliance with packaging, labeling and health and safety requirements.** All adult use marijuana products sold or offered for sale at a marijuana social club must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted under subchapter 7.

**5. Restricted access areas.** A marijuana social club licensee must ensure that persons under 21 years of age do not enter a restricted access area within the marijuana social club. A person under 21 years of age may not enter a restricted access area within a marijuana social club.

**6. Verification of purchaser's age.** A person must be 21 years of age or older to make a purchase in a marijuana social club. A marijuana social club may not sell any item to a person under 21 years of age.

A. Prior to initiating a sale, an employee of the marijuana social club licensee shall verify that the purchaser has a valid government-issued photographic identification card, or other acceptable photographic identification, demonstrating that the purchaser is 21 years of age or older.

B. The department shall by rule determine the forms of photographic identification that a marijuana social club licensee may accept when verifying a purchaser's age.

**7. Prohibition on commingled sale of adult use marijuana products and medical marijuana and medical marijuana products.** A marijuana social club licensee that is also a primary caregiver, a registered primary caregiver or a registered dispensary may not sell or offer for sale adult use marijuana products within the same licensed premises as the licensee sells or offers for sale medical marijuana or medical marijuana products.

**8. Signage, marketing and advertising.** All signage used by and all marketing and advertising conducted by or on behalf of a marijuana social club must comply with the requirements of section 704, subsection 2 and the rules adopted under section 704, subsection 2.

**9. Sales tax.** A marijuana social club licensee shall ensure that all sales taxes imposed on the sale of adult use marijuana products to a consumer by a marijuana social club pursuant to Title 36, section 1818 are collected and remitted to the department.

A. The department may require a marijuana social club licensee to post a bond or other guarantee to ensure collection and remittance of the sales tax by the licensee.

B. The department shall adopt rules to address the failure of a marijuana social club to make the sales tax payments as required by this subsection, including, but not limited to, the imposition of fines and other penalties, including, but not limited to, suspension or revocation of the marijuana social club's license. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

10. Tracking. A marijuana social club licensee shall track all marijuana products from the point that the marijuana products are transferred from or delivered to the marijuana social club by a products manufacturing facility to the point that the marijuana products are sold to a consumer, transferred or delivered to a testing facility or disposed of or destroyed.

#### **§506. Transportation of adult use marijuana and adult use marijuana products**

A licensee and its employees may transport adult use marijuana and adult use marijuana products between the licensed premises of the licensee and the licensed premises of any other marijuana establishment licensed under this chapter. All transportation of adult use marijuana and adult use marijuana products must be documented by the licensee or the employee of the licensee in accordance with rules adopted by the department. The department shall adopt rules regarding the transportation of adult use marijuana and adult use marijuana products by licensees under this chapter. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§507. Employment of persons under 21 years of age prohibited**

A licensee may not employ any person under 21 years of age.

#### **§508. Use of adult use marijuana and adult use marijuana products within licensed premises**

1. Employee use of medical marijuana or medical marijuana products. A licensee may allow an employee who is a qualifying patient under the Maine Medical Use of Marijuana Act to privately consume medical marijuana and medical marijuana products within its licensed premises.

2. Employee use of adult use marijuana or adult use marijuana products. Except where otherwise provided in this chapter, a licensee may not allow an employee to consume adult use marijuana or adult use marijuana products within its licensed premises or while the employee is otherwise on work duty.

3. Other use of adult use marijuana or adult use marijuana products. Except where otherwise provided in the chapter:

A. A licensee may not allow any person to consume adult use marijuana or adult use marijuana products within its licensed premises; and

B. A person may not consume adult use marijuana or adult use marijuana products within the licensed premises of a marijuana establishment.

**§509. License to be conspicuously displayed**

A licensee shall ensure that the licensee's license, or a copy of such license, is at all times conspicuously displayed within its licensed premises, including, but not limited to, in all restricted access areas and limited access areas.

**§510. Limited access areas**

A licensee shall ensure that all areas of ingress and egress to limited access areas within the licensed premises are conspicuously marked and that no persons are allowed to enter or remain in any limited access area without displaying the person's identification card issued by the department pursuant to section 106. A person may not enter or remain in any limited access area unless the person displays an identification card issued by the department pursuant to section 106.

**§511. Recordkeeping and inspection of records; audits**

**1. Recordkeeping; inspection of records.** A licensee shall maintain a complete set of all records of the licensee's business transactions, which must be open to inspection and examination by the department and the Department of Agriculture, Conservation and Forestry upon demand and without notice during all business hours. Records must be maintained by a licensee at a minimum for a period comprising the current tax year and the 2 immediately preceding tax years.

**2. Additional information may be required.** The department or the Department of Agriculture, Conservation and Forestry may require a licensee to furnish any additional information necessary for the proper administration of this chapter.

**3. Audit.** The department may require a licensee to submit to an audit of the licensee's business records. If the department requires a licensee to submit to an audit, the licensee shall provide the auditor selected by the department with access to all business records of the licensee and the cost of the audit must be paid by the licensee.

**4. Confidentiality.** This subsection governs the confidentiality of records under this section.

A. Documents of a licensee inspected or examined by the department or the Department of Agriculture, Conservation and Forestry pursuant to this section are confidential and may not be disclosed except as needed in a civil or criminal proceeding to enforce any provision of this chapter or any criminal law.

B. Audit working papers are confidential and may not be disclosed to any person outside the department or the Department of Agriculture, Conservation and Forestry, except that



audit working papers may be disclosed to the licensee subject to the audit. A final audit report is a public record. For the purposes of this paragraph, “audit working papers” means all documentation and other information acquired, prepared or maintained by the department and the auditor selected by the department during the conduct of the audit, including, but not limited to, draft reports and portions of draft reports.

### **§512. Inspection of licensed premises; testing and sampling for product quality control**

**1. Inspections.** A licensee shall submit to an inspection of its licensed premises, including, but not limited to, any places of storage and any locked areas, upon demand and without notice during all business hours and other times of apparent activity by the department, the Department of Agriculture, Conservation and Forestry, a criminal justice agency or an official authorized by the municipality in which the licensed premises are located.

**2. Testing and sampling for product quality control.** A licensee shall submit to the sampling and testing of adult use marijuana or adult use marijuana products within its possession, upon demand and without notice during all business hours by the Department of Agriculture, Conservation and Forestry, for the purposes of product quality control. The Department of Agriculture, Conservation and Forestry shall adopt rules governing the sampling and testing of adult use marijuana and adult use marijuana products under this subsection, consistent with the requirements of subchapter 6. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§513. Licensee compliance with regulatory requirements**

All licensees must, as a condition of licensure under this chapter, comply with all applicable provisions of this chapter and all applicable provisions of the rules adopted pursuant to this chapter.

## **SUBCHAPTER 6**

### **TESTING OF MARIJUANA AND MARIJUANA PRODUCTS**

#### **§601. Testing program established**

The Department of Agriculture, Conservation and Forestry, after consultation with the department, shall establish a testing program for adult use marijuana and adult use marijuana products. Except as otherwise provided in this subchapter, the program must require a licensee, prior to selling or furnishing adult use marijuana or an adult use marijuana product to a consumer or to another licensee, to submit the marijuana or marijuana product to a testing facility for testing to ensure that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The Department of Agriculture, Conservation and Forestry shall adopt rules establishing a testing program pursuant to this section, rules identifying the types of contaminants that are injurious to health for which marijuana and marijuana products must be tested under this subchapter and rules regarding the maximum level of allowable

contamination for each contaminant. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§602. Mandatory testing**

A licensee may not sell or furnish adult use marijuana or an adult use marijuana product to a consumer or to another licensee under this chapter unless the marijuana or marijuana product has been tested pursuant to this subchapter and the rules adopted pursuant to this subchapter and that mandatory testing has demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required.

**1. Scope of mandatory testing.** Mandatory testing of adult use marijuana and adult use marijuana products under this section must include, but is not limited to, testing for:

- A. Residual solvents, poisons and toxins;
- B. Harmful chemicals;
- C. Dangerous molds and mildew;
- D. Harmful microbes, including, but not limited to, Escherichia coli and salmonella;
- E. Pesticides, fungicides and insecticides; and
- F. THC potency, homogeneity and cannabinoid profiles to ensure correct labeling.

The Department of Agriculture, Conservation and Forestry may, after consultation with the department, temporarily waive mandatory testing requirements for any contaminant or criterion for which the Department of Agriculture, Conservation and Forestry has determined that there exists no licensed testing facility in the State capable of and certified to perform such testing.

**2. Recordkeeping.** A licensee shall maintain a record of all mandatory testing that includes a description of the adult use marijuana or adult use marijuana product provided to the testing facility, the identity of the testing facility and the results of the mandatory test.

**3. Testing process, protocols and standards.** The Department of Agriculture, Conservation and Forestry shall establish by rule processes, protocols and standards for mandatory and other testing of marijuana and marijuana products that conform with the best practices generally used within the marijuana industry.

### **§603. Notification requirements**

**1. Notification required.** If the results of a mandatory test indicate that the tested adult use marijuana or adult use marijuana product exceeds the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required,

the testing facility shall immediately quarantine, document and properly destroy the marijuana or marijuana product, except when the owner of the tested marijuana or marijuana product has successfully undertaken remediation and retesting, and shall within 30 days of completing the test notify the Department of Agriculture, Conservation and Forestry of the test results.

**2. Notification not required.** A testing facility is not required to notify the Department of Agriculture, Conservation and Forestry of the results of any test:

A. Conducted on adult use marijuana or an adult use marijuana product at the direction of a licensee pursuant to subsection 1 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required;

B. Conducted on adult use marijuana or an adult use marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the testing facility prior to the performance of the test that the testing is for research and development purposes only;

C. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee; or

D. Conducted on a substance that is not marijuana or a marijuana product.

#### **§604. Sampling for testing**

If a test to be performed by a testing facility is a mandatory test, an employee or designee of the testing facility must perform the sampling required for the test. If a test to be performed by a testing facility is not a mandatory test, the owner of the marijuana or marijuana product, or a designee of the owner, may perform the sampling required for the test.

#### **§605. Additional testing not required**

Notwithstanding section 602, a licensee may sell or furnish to a consumer or to another licensee adult use marijuana or an adult use marijuana product that the licensee has not submitted for testing in accordance with this subchapter if:

**1. Prior testing.** The marijuana or marijuana product has previously been tested in accordance with this subchapter by another licensee and that testing demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required;

**2. Proper documentation.** The mandatory testing process and the test results for the marijuana or marijuana product are documented in accordance with the requirements of this chapter and all applicable rules adopted pursuant to this chapter;

**3. Tracking maintained.** Tracking from immature plant to the point of retail sale has been maintained for the marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or to a consumer can be easily identified; and

**4. No subsequent processing, manufacturing or alteration.** Since the performance of such prior testing under subsection 1, the marijuana or marijuana product has not undergone any further processing, manufacturing or alteration, other than the packaging and labeling of the marijuana or marijuana product for sale.

### **§606. Coordination with testing program and rules for medical marijuana**

In adopting rules and regulating the testing of adult use marijuana and adult use marijuana products under this chapter, the Department of Agriculture, Conservation and Forestry shall consult and coordinate with the Department of Health and Human Services to ensure that, where necessary and practicable, the regulation of the testing of adult use marijuana and adult use marijuana products under this chapter is consistent with the regulation of the testing of medical marijuana and medical marijuana products under the Maine Medical Use of Marijuana Act.

## **SUBCHAPTER 7**

### **LABELING AND PACKAGING; HEALTH AND SAFETY; SIGNAGE, ADVERTISING AND MARKETING**

#### **§701. Labeling requirements**

**1. Required labeling.** Adult use marijuana and adult use marijuana products sold in accordance with this chapter must be labeled, where applicable based on the marijuana or marijuana product to be sold, with the following information:

- A. The license numbers of the cultivation facility, the products manufacturing facility and the marijuana store where the adult use marijuana or adult use marijuana product was cultivated, manufactured if applicable and offered for sale;
- B. An identity statement, a universal symbol and warning labels;
- C. The batch number;
- D. A net weight statement;
- E. Information on the THC potency of the adult use marijuana or adult use marijuana product and the potency of such other cannabinoids or other chemicals in the marijuana or marijuana product, including, but not limited to, cannabidiol;

F. Information on the amount of THC and cannabidiol per serving of the adult use marijuana or adult use marijuana product and, for edible marijuana products, the number of servings per package;

G. Information on gases and solvents used in marijuana extraction;

H. For adult use marijuana products, the amount of marijuana concentrate per serving, as measured in grams, and the amount of marijuana concentrate per package, as measured in grams; a list of ingredients and possible allergens; and a recommended use date or expiration date;

I. For edible marijuana products, a nutritional fact panel;

J. Instructions on usage; and

K. Any other information required by the department by rule.

**2. Other authorized labeling.** Adult use marijuana or adult use marijuana products sold in accordance with this chapter may include on the label of the marijuana or marijuana product a statement of compatibility with dietary practices and any other information that has been preapproved by the department.

## **§702. Packaging requirements**

**1. Required packaging.** Adult use marijuana and adult use marijuana products to be sold or offered for sale in accordance with this chapter must be packaged, where applicable based on the marijuana or marijuana product to be sold, in the following manner:

A. Adult use marijuana and adult use marijuana products must be prepackaged in child-resistant and tamper-evident packaging or must be placed in child-resistant and tamper evident exit packaging at the point of sale;

B. Packaging for multi-serving liquid adult use marijuana products must include an integral measurement component and a child-resistant cap; and

C. Packaging must conform to all other applicable standards and requirements adopted by rule by the department.

**2. Other authorized packaging.** Adult use marijuana or adult use marijuana products to be sold or offered for sale in accordance with this chapter may be packaged in a manner that has been preapproved by the department.

## **§703. Labeling and packaging prohibitions**

Adult use marijuana and adult use marijuana products sold or offered for sale under this chapter may not be labeled or packaged in a manner that:

**1. Trademarks.** Violates a federal trademark law or regulation or would cause a reasonable consumer confusion as to whether the marijuana or marijuana product was a trademarked product;

**2. Appeal to persons under 21.** Is designed to appeal to a person under 21 years of age;

**3. False or deceptive labeling.** Obscures identifying information on the label or uses a false or deceptive label; or

**4. Rules.** Violates any other labeling, packaging or health and safety requirement or prohibition imposed by the department by rule pursuant to section 704.

#### **§704. Rules**

**1. Labeling, packaging and health and safety rules.** The department shall adopt labeling, packaging and other necessary health and safety rules for adult use marijuana and adult use marijuana products to be sold or offered for sale in accordance with this chapter, which are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this subsection must establish mandatory health and safety standards applicable to the cultivation of adult use marijuana, the manufacture of adult use marijuana products and the packaging and labeling of adult use marijuana and adult use marijuana products sold to or by a marijuana store or a marijuana social club. Such rules must address, but are not limited to:

**A. Requirements for the storage, warehousing and transportation of adult use marijuana and adult use marijuana products by marijuana establishments;**

**B. Sanitary standards for marijuana establishments, including, but not limited to, sanitary standards for the preparation of adult use marijuana products;**

**C. Limitations on the display of adult use marijuana and adult use marijuana products at marijuana stores and marijuana social clubs; and**

**D. Limitations, requirements and prohibitions on the manufacture of edible marijuana products that:**

**(1) Allow the use of geometric shapes or the shape of a marijuana leaf in an edible marijuana product or on label or in the packaging of the product;**

**(2) Require the cannabinoid content within an edible marijuana product to be homogeneous throughout the product and require the amount of marijuana concentrate within an adult use marijuana product to be homogenous throughout the product;**

**(3) Require a universal symbol to be stamped or embossed on each serving of an edible marijuana product;**

(4) Limit the amount of active THC in an edible marijuana product to 10 milligrams active THC per serving and 100 milligrams active THC per package;

(5) Prohibit the use of a distinct shape of a human, animal or fruit in an edible marijuana product or on the label or in the packaging of the product;

(6) Prohibit the use of additives in an edible marijuana product that are toxic or harmful to human beings, that are designed to make the product more addictive or that are misleading to consumers;

(7) Prohibit the use of additives in an edible marijuana product that are designed to make the product more appealing to a person under 21 years of age; and

(8) Prohibit the addition of marijuana to a trademarked food or drink product, except where the trademarked product is used as a component of or ingredient in an edible marijuana product that is not advertised or described for sale as containing the trademarked product.

**2. Signage, advertising and marketing rules.** The department shall adopt rules regulating signage, advertising and marketing by licensees, which are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted by the department pursuant to this subsection must prohibit the use of misleading, deceptive or false advertising, marketing and signage and the use of mass-market advertising or marketing campaigns that have a high likelihood of reaching persons under 21 years of age or that are designed to appeal to persons under 21 years of age and may include, but are not limited to:

A. A prohibition on health or physical benefit claims in advertising, marketing and packaging;

B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites;

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature;

D. A prohibition on advertising or marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature; and

E. A prohibition on signage that is inconsistent with local ordinances, laws or regulations.

## SUBCHAPTER 8

### LICENSE VIOLATIONS

#### §801. Department may fine licensee or suspend or revoke license for license violation; Maine Administrative Procedure Act applies

The department, on its own motion or on complaint and after investigation and opportunity for a public hearing, may by written order fine a licensee or suspend or revoke the licensee's license for a violation by the licensee or by an agent or employee of the licensee of the provisions of this chapter or any of the rules adopted pursuant to this chapter or of any of the terms, conditions or provisions of the licensee's license.

1. Additional penalties. Any penalties imposed by the department on a licensee pursuant to this section are in addition to any criminal, civil or administrative penalties that may be imposed pursuant to other applicable laws or rules.

2. Maine Administrative Procedure Act; appeals. Except as otherwise provided in this subchapter or in rules adopted pursuant to this subchapter, the imposition of a fine, suspension or revocation on a licensee by the department, including, but not limited to, the provision of notice and the conduct of hearings, is governed by the Maine Administrative Procedure Act. A licensee may appeal an order of the department imposing a fine on the licensee or suspending or revoking the licensee's license, which is a final agency action as defined in Title 5, section 8002, subsection 4, to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

#### §802. Notice and hearing

1. Notice. The department shall provide a licensee with written notice of any proposed fine, suspension or revocation describing the basis for the fine, suspension or revocation and the licensee's right to request a public hearing on the matter.

2. Hearing. The department may administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary for conducting a public hearing regarding a proposed fine, suspension or revocation.

#### §803. Fines

1. Amount of fine; rules. As provided in this section, a fine imposed by the department on a licensee pursuant to this subchapter may not exceed \$100,000 per license violation. The department shall adopt rules setting forth potential fine amounts to be imposed on a licensee based upon specific categories of unauthorized conduct by the licensee. Rules adopted pursuant to this subsection shall set potential fine amounts of:

A. Not more than \$10,000 per minor license violation;



B. Except as provided in paragraph C, not more than \$50,000 per major license violation; and

C. Not more than \$100,000 per major license violation affecting public safety.

**2. Payment of fine.** All fines imposed pursuant to this subchapter must be paid by the licensee to the department in the form of cash or in the form of a certified check or a cashier's check payable to the department. All fines paid to the department pursuant to this subchapter must be transmitted by the department to the Treasurer of State, who shall apply the money to the expenses incurred by the department in the administration and enforcement of this chapter.

#### **§804. License suspension and revocation**

**1. Effect of suspension.** A licensee whose license has been suspended pursuant to this subchapter may not, for the duration of the period of suspension, engage in any activities relating to the operation of the marijuana establishment the licensee is licensed to operate under this chapter.

**2. Effect of revocation.** A licensee whose license has been revoked pursuant to this subchapter must immediately cease all activities relating to the operation of the marijuana establishment the licensee was previously licensed to operate under this chapter and must ensure that all adult use marijuana and adult use marijuana products in the possession of the licensee are forfeited to the department for destruction in accordance with section 805.

**3. Imposition of fine upon suspension or revocation.** In addition to suspending or revoking a licensee's license, the department may impose a fine on the licensee consistent with section 803.

#### **§805. Disposition of unauthorized marijuana or marijuana products of licensee**

**1. Order; destruction of marijuana or marijuana products.** If the department issues a final order imposing a fine or a license suspension or revocation against a licensee pursuant to section 804, then, in addition to any other penalties imposed in the order, the department may specify in the order that all or a portion of the marijuana or marijuana products in the possession of the licensee are not authorized under this chapter and subject to destruction. A licensee subject to a final order directing the destruction of marijuana or marijuana products in the possession of the licensee shall forfeit such marijuana and marijuana products described in the order to the department for destruction.

**2. Investigation.** If the department is notified by a criminal justice agency that there is a pending investigation of a licensee subject to an order imposed under subsection 1, the department may not destroy any marijuana or marijuana products of that licensee until such destruction is approved by the criminal justice agency.

## **§806. Rules**

The department shall adopt rules governing the imposition of fines, suspensions or revocations under this subchapter, which must include, but are not limited to, provisions relating to notice and conduct of hearings consistent with the Maine Administrative Procedure Act and provisions relating to the disposition of unauthorized marijuana and marijuana products of a licensee. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

## **SUBCHAPTER 9**

### **MARIJUANA ADVISORY COMMISSION**

## **§901. Establishment**

The Marijuana Advisory Commission, established by Title 5, section 12004-I, subsection 52-C and referred to in this subchapter as "the commission," is created for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis.

## **§902. Membership; chairs; terms; vacancies; quorum**

**1. Membership.** The commission consists of the following 15 members:

A. The Director of the Bureau of Alcoholic Beverages and Lottery Operations within the department or the director's designee;

B. The Commissioner of Health and Human Services or the commissioner's designee;

C. The Commissioner of Public Safety or the commissioner's designee;

D. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee;

E. The Attorney General or the Attorney General's designee;

F. The following 5 members, appointed by the Speaker of the House of Representatives:

(1) Two members of the House of Representatives, including members from each of the 2 parties holding the largest number of seats in the Legislature;

(2) A representative of a statewide association representing municipalities;

(3) A representative of a statewide association representing the adult use marijuana industry; and

(4) A member of the public; and

G. The following 5 members, appointed by the President of the Senate:

(1) Two members of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;

(2) A representative of a statewide association of health care professionals;

(3) A representative of a statewide association representing the medical marijuana industry; and

(4) A member of the public.

**2. Chairs.** The first-named Senate member is the Senate chair and the first-named House member is the House chair of the commission.

**3. Terms.** Public members of the commission serve for a term of 2 years and may be reappointed. Members of the commission who are Legislators serve during the term of office for which they were elected.

**4. Vacancies.** In the event of a vacancy on the commission, the member's unexpired term must be filled through an appointment by the appointing authority for the vacant seat.

**5. Quorum.** A quorum of the commission consists of 8 members.

### **§903. Duties**

**1. Review of laws and rules.** The commission shall review laws and rules pertaining to the adult use and medical marijuana industries in Maine and any other provision of law or rule pertaining to marijuana, including, but not limited to, laws and rules regarding public health, public safety, juvenile and adult criminal and civil offenses, workplace drug testing, workplace safety, motor vehicle safety, landlords and tenants, the personal use of marijuana and taxes and fees paid to the State by applicants and registered primary caregivers and registered dispensaries under the Maine Medical Use of Marijuana Act and applicants and licensees under the Marijuana Legalization Act.

**2. Submission of recommendations to Legislature.** The commission shall submit to the Legislature such recommended changes to the laws as it considers appropriate to preserve the public health and safety and the well-being of the citizens of the State and to preserve the intent of citizens as expressed in passage of the Marijuana Legalization Act. The commission shall include any recommended changes in its annual report to the Legislature pursuant to subsection 4.

**3. Public hearings.** The commission may hold public hearings at such times and at such places as the commission considers appropriate in order to take testimony concerning the use,

possession and distribution of marijuana and to align the Marijuana Legalization Act with other provisions of law.

**4. Report to Legislature.** Beginning January 15, 2019, and annually thereafter, the commission shall submit a report containing its findings and recommendations, together with any suggested legislation, to the joint standing committee or committees of the Legislature having jurisdiction over medical marijuana matters and adult use marijuana matters.

#### **§904. Organization; staffing; consultation**

**1. Organization; staffing.** The Legislative Council shall provide staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Executive Director of the Legislative Council shall notify all members of the commission of the time and place of the first meeting. At that time the commission shall organize and adopt policies regarding the functioning of the commission and its affairs.

**2. Consultation.** Whenever the commission considers it appropriate, it may seek the advice of consultants or experts, including representatives of the legislative and executive branches of state government, in fields related to its duties.

#### **§905. Reimbursement of expenses**

Members of the commission must be compensated in accordance with Title 5, chapter 379.

### **SUBCHAPTER 10**

#### **ADULT USE MARIJUANA PUBLIC HEALTH AND SAFETY FUND; ADULT USE MARIJUANA REGULATORY COORDINATION FUND**

#### **§1001. Adult use marijuana public health and safety fund**

The Adult Use Marijuana Public Health and Safety Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing fund within the department for the purposes specified in this section.

**1. Sources of fund.** The State Controller shall credit to the fund:

**A.** Money received from the sales tax imposed on the retail sale of adult use marijuana and adult use marijuana products by a marijuana store or a marijuana social club in the amount required under Title 36, section 1818;

**B.** All money from any other source, whether public or private, designated for deposit into or credited to the fund; and

C. Interest earned or other investment income on balances in the fund.

**2. Uses of fund.** Money credited to the fund pursuant to subsection 1 may be used by the department as provided in this subsection.

A. 50% of all money credited to the fund may be expended by the department to fund public health and safety awareness and education programs, initiatives, campaigns and activities relating to the sale and use of adult use marijuana and adult use marijuana products conducted in accordance with section 108 by the department, another state agency or department or any other public or private entity.

B. 50% of all money credited to the fund may be expended by the department to fund enhanced law enforcement training programs relating to the sale and use of adult use marijuana and adult use marijuana products for local, county and state law enforcement officers conducted in accordance with section 109 by the department, the Maine Criminal Justice Academy, another state agency or department or any other public or private entity.

**3. Application of fund to departmental expenses prohibited.** Money in the fund may not be applied to any expenses incurred by the department or the Department of Agriculture, Conservation and Forestry in implementing, administering or enforcing this chapter.

### **§1002. Adult Use Marijuana Regulatory Coordination Fund**

The Adult Use Marijuana Regulatory Coordination Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing Other Special Revenue Funds account in the department. The fund is administered and used by the commissioner for the purposes of adopting rules as required by this chapter by the department and by any other department of State Government that is authorized to adopt rules under this chapter. The commissioner may expend money in the fund to enter into contracts with consultants and employ staff, as determined necessary by the commissioner, conduct meetings with stakeholders and conduct any other activities related to the implementation, administration and enforcement of this chapter.

## **CHAPTER 2**

### **PERSONAL USE OF MARIJUANA AND MARIJUANA PRODUCTS; HOME CULTIVATION OF MARIJUANA**

#### **§1501. Personal use of marijuana and marijuana products**

**1. Authorized conduct.** A person 21 years of age or older may:

A. Use, possess or transport marijuana paraphernalia and use, possess or transport up to 2 1/2 ounces of marijuana or a combination of marijuana and marijuana products that includes no more than 5 grams of marijuana concentrate;

B. Transfer or furnish, without remuneration, to a person 21 years of age or older up to 2 1/2 ounces of marijuana, or a combination of marijuana and marijuana products that includes no more than 5 grams of marijuana concentrate, and up to 6 immature marijuana plants or seedlings. For the purposes of this paragraph, "remuneration" includes a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana or marijuana products are transferred or furnished by that person to another person;

C. Subject to the provisions of section 1502, possess, cultivate or transport up to 6 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings, and possess all the marijuana produced by such plants at the person's place of residence or at the location where such marijuana was cultivated as provided in section 1502, subsection 1;

D. Purchase up to 2 1/2 ounces of adult use marijuana, or a combination of adult use marijuana and adult use marijuana products that includes no more than 5 grams of marijuana concentrate, and up to 12 immature marijuana plants or seedlings from a marijuana store licensed under chapter 1; and

E. Purchase an amount of adult use marijuana products that includes no more than 5 grams of marijuana concentrate from a marijuana social club licensed under chapter 1.

**2. Consumption of marijuana and marijuana products; violation.** The provisions of this subsection apply to the consumption of marijuana or marijuana products by a person 21 years of age or older.

A. A person 21 years of age or older may consume marijuana or marijuana products only if that person is:

(1) In a private residence, including curtilage; or

(2) On private property, not generally accessible by the public, and the person is explicitly permitted to consume marijuana or marijuana products on the property by the owner of the property;

B. A person 21 years of age or older may not consume marijuana or marijuana products:

(1) If that person is the operator of a vehicle on a public way or is a passenger in the vehicle. As used in this subparagraph, "vehicle" has the same meaning as in Title 29-A, section 101, subsection 91;

(2) In a private residence or on private property used as a day care or baby-sitting service during the hours in which the residence or property is being operated as a day care or baby-sitting service;

(3) By means of smoking the marijuana or marijuana product in a designated smoking area as provided under the Workplace Smoking Act of 1985; or

(4) By means of smoking the marijuana or marijuana product in a public place or in a public area where smoking is prohibited under Title 22, chapter 262.

C. A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged in addition to any criminal, civil or administrative penalties that may be imposed pursuant to other applicable laws or rules.

## **§1502. Home cultivation of marijuana**

Notwithstanding any provision to the contrary in Title 22, section 2423-A, subsection 1 or in the rules regarding cultivation for personal medical use adopted pursuant to the Maine Medical Use of Marijuana Act, the following provisions apply to the home cultivation of marijuana for personal adult use by a person 21 years of age or older or for personal medical use by a person 21 years of age or older who is a qualifying patient. This section does not apply to the cultivation of marijuana for medical use by a primary caregiver, a registered primary caregiver or a registered dispensary as authorized under the Maine Medical Use of Marijuana Act.

**1. Cultivation of up to 6 mature marijuana plants per person authorized.** Subject to the restrictions of subsection 2 and 3, a person may cultivate up to 6 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings at that person's place of residence, on a parcel or tract of land owned by that person or on a parcel or tract of land owned by another person with the written permission of that owner. A person may cultivate the 6 mature marijuana plants authorized under this subsection at multiple locations so long as such cultivation activities otherwise meet all requirements and restrictions of this section.

**2. Cultivation more than 12 mature marijuana plants per parcel or tract of land prohibited.** Notwithstanding any other provision of law to the contrary, no more than 12 mature marijuana plants may be cultivated on any one parcel or tract of land, whether such cultivation is for personal adult use, as authorized under this chapter, or for personal medical use, as authorized under Title 22, section 2423-A, subsection 1.

**3. Cultivation requirements.** A person who cultivates marijuana for personal adult use or personal medical use shall:

A. Ensure that the marijuana is not visible from a public way without the use of binoculars, aircraft or other optical aids;

B. Take reasonable precautions to prevent unauthorized access by a person under 21 years of age;

C. Attach to each mature marijuana plant and each immature marijuana plant a legible tag that includes the person's name, driver's license number or identification number, a

designation of whether the marijuana plant is being grown for personal adult use as authorized under this chapter or for personal medical use as authorized under Title 22, section 2423-A, subsection 1 and, if the cultivation is on a parcel or tract of land owned by another person, the name of that owner;

D. Comply with all applicable municipal odor control measures adopted by the municipality in which the marijuana is cultivated pursuant to chapter 1, section 405.

**4. Compliance with home cultivation limitations on amount of marijuana plants and marijuana.** If a person is a qualifying patient under the Maine Medical Use of Marijuana Act, a determination of whether such person is in compliance with the limitations on the amount of marijuana plants and the amount of marijuana produced by such plants that the person may cultivate and possess pursuant to this section and section 1501 must include the amount of marijuana plants and the amount of marijuana produced by such plants that the person may cultivate and possess pursuant to the Maine Medical Use of Marijuana Act.

#### **§1503. Home extraction of marijuana concentrate by use of inherently hazardous substance prohibited**

Except as authorized under chapter 1, section 502, subsection 6, a person may not manufacture marijuana concentrate using an inherently hazardous substance and an owner of a property or a parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate using an inherently hazardous substance within or on such property or land.

#### **§1504. Violations; penalties**

Except as provided in section 1501, subsection 2, a person who violates any provision of this chapter is subject to forfeiture or seizure of any unauthorized marijuana, marijuana products or marijuana plants and is subject to any additional criminal, civil or administrative penalties that may be imposed pursuant to other applicable laws or rules.

**Sec. A-4. Transfer of funds; Adult Use Marijuana Regulatory Coordination Fund.** Notwithstanding any other provision of law to the contrary, the State Controller, no later than 5 days after the effective date of this Act, shall transfer the balance of the Retail Marijuana Regulatory Coordination Fund in the Department of Administrative and Financial Services to the Adult Use Marijuana Regulatory Coordination Fund in the Department of Administrative and Financial Services.

**Sec. A-5. Department of Administrative and Financial Services; major substantive rulemaking.** On or before March 15, 2018, the Department of Administrative and Financial Services shall provisionally adopt and submit to the Legislature for review rules related to the Marijuana Legalization Act established pursuant to the Maine Revised Statutes, Title 28-B, chapter 1.



**Sec. A-6. Department of Agriculture, Conservation and Forestry; major substantive rulemaking.** On or before March 15, 2018, the Department of Agriculture, Conservation and Forestry shall provisionally adopt and submit to the Legislature for review rules related to the Marijuana Legalization Act established pursuant to the Maine Revised Statutes, Title 28-B, chapter 1.

**Sec. A-7. Department of Administrative and Financial Services; acceptance and processing of applications.** No later than 30 days after the final adoption of rules by the Department of Administrative and Financial Services pursuant to the authority granted in the Marijuana Legalization Act, the department shall begin accepting and processing applications for licenses to operate adult use marijuana establishments under the Marijuana Legalization Act.

## **PART B**

**Sec. B-1. 5 MRSA §194-B, sub-§2, first ¶** is amended to read:

**2. Conversion transaction.** "Conversion transaction" means the sale, transfer, lease, exchange, transfer by exercise of an option, conveyance, conversion, merger or other disposition or the transfer of control or governance of the assets or operations of a public charity to a person other than a public charity incorporated or domiciled in this State. A disposition or transfer constitutes a conversion transaction regardless of whether it occurs directly or indirectly and whether it occurs in a single transaction or a related series of transactions. If exercise of an option constitutes a conversion transaction, any consideration received for the granting of the option must be considered part of the transaction for purposes of applying the review criteria in section 194-G. "Conversion transaction" does not include a transaction resulting in the creation of a reorganized registered dispensary as authorized under Title 22, section 2428, subsection 6, paragraph A-1 or a transaction that supports or continues the charitable activities of the public charity, including but not limited to:

**Sec. B-2. 13-B MRSA §901-A** is enacted to read:

### **§901-A. Procedure for merger for nonprofit dispensary registered by Department of Health and Human Services under Maine Medical Use of Marijuana Act**

**1. Registered nonprofit dispensary may merge.** Notwithstanding section 901, a mutual benefit nonprofit corporation organized under this Act, which is operating as a registered nonprofit dispensary under the provisions of Title 22, chapter 558-C, and a corporation organized under Title 13, chapter 81 or a limited liability company formed under Title 31, chapter 21 may merge, pursuant to a plan of merger approved in the manner provided in subsection 2, and as authorized under Title 22, section 2428, into a domestic business corporation or a domestic limited liability company.

**2. Plan of merger.** Each corporation shall adopt a plan of merger setting forth:

A. The names of the corporations proposing to merge, and the name of the

corporation or limited liability company into which the corporation proposes to merge, which is hereinafter designated in this section as the surviving corporation or the surviving limited liability company;

B. The terms and conditions of the proposed merger;

C. A statement of any changes in the articles of incorporation of the surviving corporation or in the certificate of formation of the surviving limited liability company to be effected by such merger; and

D. Such other provisions with respect to the proposed merger as are considered necessary or desirable.

**Sec. B-3. 22 MRSA §2422, sub-§6** is repealed.

**Sec. B-4. 22 MRSA §2422, sub-§6-B** is enacted to read:

**6-B. Registered dispensary.** "Registered dispensary" or "dispensary" means a registered nonprofit dispensary or a reorganized registered dispensary authorized under section 2428 to acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, supply or dispense marijuana or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.

**Sec. B-5. 22 MRSA §2422, sub-§13-B** is enacted to read:

**13-B. Reorganized registered dispensary.** "Reorganized registered dispensary" means a business corporation or limited liability company formed pursuant to the laws of this State that:

A. Is the surviving entity in a merger between a mutual benefit nonprofit corporation operating as a registered nonprofit dispensary under the provisions of this chapter and a business corporation or limited liability company formed pursuant to the laws of this State, to the extent that the merger is permitted by applicable law; or

B. Purchases substantially all of the assets of a mutual benefit nonprofit corporation operating as a registered nonprofit dispensary under the provisions of this chapter.

**Sec. B-6. 22 MRSA §2428, sub-§6, ¶A** is repealed.

**Sec. B-7. 22 MRSA §2428, sub-§6, ¶A-1** is enacted to read:

A-1. As provided in this paragraph, a dispensary may be operated on a not-for-profit basis as a registered nonprofit dispensary or on a for profit basis as a reorganized registered dispensary.

(1) A dispensary may be operated on a not-for-profit basis as a registered nonprofit dispensary for the mutual benefit of qualifying patients who have designated the dispensary to cultivate marijuana. The bylaws of a registered nonprofit dispensary and its contracts with qualifying patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain the not-for-profit status of the dispensary. A registered nonprofit dispensary need not be recognized as a tax-exempt organization under 26 United States Code, Section 501(c)(3) but is required to incorporate pursuant to Title 13-B and to maintain the corporation in good standing with the Secretary of State.

(2) A registered nonprofit dispensary may enter into and consummate any transaction that results in a reorganized registered dispensary.

(a) The directors of a registered nonprofit dispensary may approve a transaction that results in a reorganized registered dispensary and do not violate any duty as directors for approving such transaction.

(b) In order to qualify as a registered reorganized dispensary, at the time that a transaction resulting in a registered reorganized dispensary is completed, two-thirds or more of the directors of the reorganized registered dispensary operating as a corporation, or two-thirds or more of the managers or members of the reorganized registered dispensary operating as a limited liability company, must be persons who served as directors of the registered nonprofit dispensary at the time that the registered nonprofit dispensary entered into the transaction.

(c) Upon completion of a transaction that results in a reorganized registered dispensary, the reorganized registered dispensary is, for the purposes of licensure and all other purposes under this chapter and under Title 28-B, chapter 1, deemed to be the same entity as the registered nonprofit dispensary that entered into the transaction and to hold all licenses held by the registered nonprofit dispensary immediately prior to entering into the transaction.

(d) Upon request of the officers of a reorganized registered dispensary, the department shall confirm the licensure status of the dispensary promptly and in writing by issuing a certificate of registration naming the reorganized registered dispensary as a registered dispensary for all purposes under this chapter.

## PART C

**Sec. C-1. 17-A MRSA §1111-A, sub-§1, first ¶** is amended to read:

**1.** As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's medical use of marijuana; to a person who is authorized to possess marijuana for adult use pursuant to Title 28-B, chapter 1 or 2, to the extent the drug paraphernalia is used for that person's adult use of marijuana; or to an adult use marijuana store or an adult use marijuana social club licensed pursuant to Title 28-B, chapter 1, to the extent that the drug paraphernalia relates to the sale or offering for sale of marijuana by the adult use marijuana store or adult use marijuana social club. It includes, but is not limited to:

**Sec. C-2. 25 MRSA §1542-A, sub-§1, ¶¶L and M** are amended to read:

**L.** Who is assigned to provide services to the Department of Administrative and Financial Services, Bureau of Revenue Services pursuant to a contract or subcontract for services to the bureau and whose fingerprints have been required by the State Tax Assessor pursuant to Title 36, section 194-C; or

**M.** Who is required to submit to a criminal history record check pursuant to Title 28-B, section 204.

**Sec. C-3. 25 MRSA §1542-A, sub-§3, ¶L** is enacted to read:

**L.** The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph M at the request of that person and upon payment of the expenses by that person as provided under Title 28-B, section 204.

**Sec. C-4. 25 MRSA §1542-A, sub-§4** is amended to read:

**4. Duty to submit to State Bureau of Identification.** It is the duty of the law enforcement agency taking the fingerprints as required by subsection 3, paragraphs A, B and G to transmit immediately to the State Bureau of Identification the criminal fingerprint record. Fingerprints taken pursuant to subsection 1, paragraph C, D, E or F or pursuant to subsection 5 may not be submitted to the State Bureau of Identification unless an express request is made by the commanding officer of the State Bureau of Identification. Fingerprints taken pursuant to subsection 1, paragraph G must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Department of Education. The bureau may not use the fingerprints for any purpose other than that provided for under Title 20-A, section 6103. The bureau shall retain the fingerprints, except

as provided under Title 20-A, section 6103, subsection 9. Fingerprints taken pursuant to subsection 1, paragraph I and subsection 3, paragraph I must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the court and the Department of Public Safety, Gambling Control Board, respectively. Fingerprints taken pursuant to subsection 1, paragraph J, K or L must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Department of Administrative and Financial Services, Bureau of Revenue Services. Fingerprints taken pursuant to subsection 1, paragraph M must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct the state and national criminal history record checks provided under Title 28-B, section 204.

## **PART D**

**Sec. D-1. 30-A MRSA §4452, sub-§5, ¶¶U and V** are amended to read:

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards; ~~and~~

V. The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103-; ~~and~~

**Sec. D-2. 30-A MRSA §4452, sub-§5, ¶W** is enacted to read:

W. Local land use and business licensing ordinances adopted pursuant to Title 28-B, chapter 1, subchapter 4.

**Sec. D-3. 30-A MRSA §7063** is enacted to read:

### **§7063. Adult use marijuana**

Plantations have the same powers and duties, and are subject to the same restrictions and requirements, as a municipality under section 4452, subsection 5, paragraph W and under Title 28-B, chapter 1 and 2.

## **PART E**

**Sec. E-1. 36 MRSA §1817** is repealed.

**Sec. E-2. 36 MRSA §1818** is enacted to read:

### **§1818. Tax on adult use marijuana and adult use marijuana products**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Adult use marijuana" has the same meaning as in Title 28-B, section 102, subsection 1.

B. "Adult use marijuana product" has the same meaning as in Title 28-B, section 102, subsection 2.

C. "Licensee" has the same meaning as in Title 28-B, section 102, subsection 24.

C. "Marijuana social club" has the same meaning as in Title 28-B, section 102, subsection 33.

D. "Marijuana store" has the same meaning as in Title 28-B, section 102, subsection 34.

**2. Sales tax on adult use marijuana and adult use marijuana products.** The sales tax on adult use marijuana and adult use marijuana products is 20% and is the only tax charged on the sale of adult use marijuana and adult use marijuana products at the point of final sale to a consumer at a marijuana store or marijuana social club.

**3. Filing of return.** A marijuana store licensee and a marijuana social club licensee shall file, on or before the last day of each month, a return on a form prescribed and furnished by the Department of Administrative and Financial Services together with payment of the sales tax collected pursuant to this section 1818. The return must report all sales of adult use marijuana and adult use marijuana products by the marijuana store or the marijuana social club during the preceding calendar month.

**4. Recordkeeping.** A marijuana store licensee and a marijuana social club licensee shall keep a complete and accurate record at its principal place of business to substantiate all receipts and sales of adult use marijuana and adult use marijuana products. Such records must include, but are not limited to:

A. The reports and transmittal of monthly sales tax payments made by the marijuana store or the marijuana social club; and

B. Written authorization for the Department of Administrative and Financial Services, Maine Revenue Services to have access to the licensing information of the marijuana store to ensure payment by the marijuana store or the marijuana social club of all applicable state and local taxes.

**5. Application of sales tax revenue.** All sales tax revenue collected pursuant to this section must be deposited in the General Fund, except that, on or before the last day of each month, the State Controller shall:

A. Distribute to each municipality with a marijuana store or a marijuana social club operating within the municipality during the preceding month 5 percent of all sales tax revenue received by the State Tax Assessor during the preceding month pursuant to this

section from the marijuana stores and marijuana social clubs operating within that municipality;

B. Distribute 1 percent of the total sales tax revenue received by the State Tax Assessor during the preceding month pursuant to this section in equal amounts to each municipality that was a participating municipality during the preceding month. On or before the last day of each month, the Department of Administrative and Financial Services shall provide the State Controller with a list of all the municipalities that were participating municipalities during the preceding month; and

C. Transfer 12 percent of the total sales tax revenue received by the State Tax Assessor during the preceding month pursuant to this section to the Adult Use Marijuana Public Health and Safety Fund established under Title 28-B, section 1001.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

## SUMMARY

This bill, which is an emergency bill and is reported out by the Joint Select Committee on Marijuana Legalization Implementation pursuant to joint order H.P. 96, implements the recommendations of the Committee regarding the development and institution of a regulated marketplace in the State for adult use marijuana and the regulation of the personal use of marijuana and the home cultivation of marijuana for personal use pursuant to the Marijuana Legalization Act, referred to in this summary as “the Act,” which was passed into law by the people of the State of Maine in November 2016.

## PART A

Part A of the bill revises and reorganizes the Act into new Title 28-B, titled “Adult Use Marijuana,” as follows.

1. It replaces throughout the Act the term “retail marijuana” with the term “adult use marijuana.”
2. It clarifies under the Act the distinction between and provides definitions for the terms “marijuana plant,” “mature marijuana plant,” “immature marijuana plant” and “seedling.”
3. It clarifies under the Act that any conduct relating to the possession, cultivation, manufacture, testing, consumption, sale or offering for sale of marijuana or marijuana products that is not specifically authorized under the Act, pursuant to a license issued under the Act or pursuant to the Maine Medical Use of Marijuana Act is not authorized and that a person who engages in such unauthorized conduct is subject any penalties under the Act and any additional criminal, civil or administrative penalties that may be imposed under other applicable laws or rules.

4. It retains the division of regulatory authority regarding the regulation of adult use marijuana enacted as Public Law 2017, chapter 278, whereby the Department of Administrative and Financial Services, referred to in this summary as “the department,” is designated as the primary regulatory authority in the implementation, administration and enforcement of the Act, with the Department of Agriculture, Conservation and Forestry retaining regulatory authority concerning the cultivation, manufacture, testing, packaging and labeling of adult use marijuana and adult use marijuana products.

5. It further clarifies the roles and authorities, including the respective rulemaking authorities, of the department and the Department of Agriculture, Conservation and Forestry in the implementation, administration and enforcement of the Act and provides for the provisional adoption of major substantive rules pursuant to the Act by each department and the submission of such rules to the Legislature for review pursuant to the Maine Administrative Procedure Act on or before March 15, 2018.

6. It requires the department to implement and administer a tracking system for adult use marijuana from immature plant to the point of retail sale, disposal or destruction, which must include a requirement that licensees purchase radio-frequency identification tags from the department for the tracking of adult use marijuana and adult use marijuana products.

7. It requires the department to facilitate the collection and analysis of public health and safety data relating to the impacts and effects of the use of marijuana in the State.

8. It requires the department to facilitate the development and implementation of programs, initiatives and campaigns focused on increasing the awareness of and educating the public on health and safety matters relating to the use of marijuana and marijuana products. Such programs, initiatives and campaigns may be funded with a portion of the tax revenues resulting from the sale of adult use marijuana and adult use marijuana products.

9. It requires the department to facilitate the development and implementation of programs or initiatives providing enhanced training for criminal justice agencies in the requirements and enforcement of the Act. Such programs and initiatives may be funded with a portion of the tax revenues resulting from the sale of adult use marijuana and adult use marijuana products.

10. It requires the department and the Department of Agriculture, Conservation and Forestry to submit to the Legislature an annual report, beginning, February 15, 2019, which must include specific information and data relating to the regulated market for adult use marijuana in the State.

11. It implements a moratorium on the issuance of adult use marijuana social club licenses until June 1, 2019, but otherwise provides for the regulation of licensed adult use marijuana social clubs after such date.

12. It removes from the Act provisions relating to the issuance of occupational licenses.



13. It clarifies general licensing criteria for applicants seeking to operate an adult use marijuana establishment, which include a 6 month residency requirement and specific additional licensing requirements applicable to the licensing of adult use marijuana cultivation facilities. With a few exceptions, it removes from the Act any caps on the number of each license type that may be issued and removes from the Act provisions relating to preference in licensure for medical marijuana caregivers and medical marijuana dispensaries.

14. It separates within the Act the state-level and municipal-level licensing and approval processes for adult use marijuana establishments. An applicant for a license to operate an adult use marijuana establishment must submit an application along with the required application fee to the department, which, after review, may conditionally approve the license. The licensee may then seek municipal approval or a municipal license from the municipality in which the licensee proposes to locate. A municipality may adopt and impose municipal licensing standards and requirements, including a requirement that the applicant pay a municipal approval or licensing fee. Upon receipt of such municipal approval or a municipal license and payment of the required state licensing fee to the department, the department shall issue an active license, good for a term of one year from the date of issuance. A licensee may not engage in the cultivation, manufacture, testing, sale or offering for sale of marijuana or marijuana products until the licensee has been issued an active license by the department.

15. It revises and clarifies the application process for issuance and renewal of a state license to operate an adult use marijuana establishment, including a revision of the application and license fees to be imposed by the department under the Act.

16. It revises the manner in which cultivation facilities are to be licensed and regulated under the Act by removing the state-wide limitation on the total amount of licensed plant canopy and by authorizing four tiers of cultivation facility license types, the smallest of which – a tier 1 license – provides for the cultivation of up to 30 mature marijuana plants or up to 500 square feet of plant canopy and the largest of which – a tier 4 license – provides for the cultivation of up to 30,000 square feet of plant canopy. A licensee seeking renewal of a tier 4 license may seek approval from the department to expand the amount of plant canopy authorized under the license by 10,000 square feet, so long as certain criteria are met. No licensee or individual may hold or have a direct or indirect financial interest in more than 3 cultivation facility licenses or in multiple cultivation facility licenses with a combined licensed plant canopy of more than 50,000 square feet.

17. It clarifies the provisions in the Act relating to municipal regulation of adult use marijuana establishments by:

- A. Authorizing plantations to have the same powers and duties as towns and cities under the Act;
- B. Clarifying the types and categories of municipal regulations and restrictions relating to adult use marijuana that may be imposed by municipalities; and

C. Explicitly allowing municipalities to prohibit the operation of some or all types of marijuana establishments within the municipality or limit the number of any type of marijuana establishment that may be approved or licensed to operate within the municipality.

18. It clarifies operational requirements for each type of adult use marijuana establishment under the Act, including:

A. Providing for the collection of a sales tax by each marijuana store and marijuana social club;

B. Specifying standards for the extraction of marijuana concentrate by products manufacturing facilities;

C. Specifying standards for the tracking of adult use marijuana and adult use marijuana products by each adult use marijuana establishment;

D. Requiring compliance by licensees with packaging, labeling and health and safety requirements;

E. Incorporating standards and requirements applicable to testing facilities as enacted in Public Law 2017, chapter 309;

F. Clarifying sales authorizations and prohibitions applicable to marijuana stores and marijuana social clubs;

G. Providing that the smoking of marijuana or marijuana products at a marijuana social club is prohibited in accordance with state law regarding smoking in public places and public areas; and

H. Prohibiting the employment of any person under 21 years of age by any adult use marijuana establishment.

19. It clarifies and expands upon the standards and requirements of the Act for the testing of adult use marijuana and adult use marijuana products; the packaging, labeling and health and safety of adult use marijuana and adult use marijuana products; and the signage, advertising and marketing of adult use marijuana and adult use marijuana products.

20. It provides for the imposition by the department of fines on a licensee or license suspensions or license revocations of a licensee's license for a violation of the Act, in accordance with the Maine Administrative Procedure Act, and limits the amount of such fines imposed to not more than \$10,000 per minor license violation, not more than \$50,000 per major license violation and not more than \$100,000 per major license violation affecting public safety.

21. It establishes the Marijuana Advisory Commission for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis.

22. It establishes the Adult Use Marijuana Public Health and Safety Fund, which is primarily funded through dedicated tax revenue from the sale of adult use marijuana and adult use marijuana products, to be used by the department to facilitate public health and safety awareness and education programs, initiatives, campaigns and activities and enhanced law enforcement training programs for local, county and state law enforcement officers.

23. It reorganizes the Retail Marijuana Regulatory Coordination Fund, which was created and funded through the enactment of Public Law 2017, chapter 278, into the Adult Use Marijuana Regulatory Coordination Fund and transfers its remaining balances to that new fund.

24. It reorganizes the provisions of the Act relating to the personal use of marijuana and marijuana products and the home cultivation of marijuana for personal use into a chapter separate from the Marijuana Legalization Act as follows.

A. It retains the provisions of the Act authorizing a person 21 years of age or older to purchase from a marijuana store, or, where applicable, from a marijuana social club, and possess for personal adult use up to 2 1/2 ounces of marijuana or a combination of adult use marijuana and adult use marijuana products that includes no more than 5 grams of marijuana concentrate.

B. It clarifies language under the Act regarding the transfer or furnishing of marijuana or marijuana products, without remuneration, to another person to specify that such remuneration includes a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana or marijuana products are transferred or furnished by that person to another person.

C. It authorizes a person 21 years of age or older to purchase up to 12 immature plants or seedlings from a marijuana store.

D. It clarifies the provisions under the Act relating to the home cultivation of marijuana for personal use by authorizing a person 21 years of age or older to grow and harvest the marijuana from up to 6 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings at that person's place of residence, on a parcel or tract of land owned by that person or on a parcel or tract of land owned by another person with the written permission of that owner. It provides, however, that no more than 12 mature marijuana plants may be cultivated on any one parcel or tract of land. These limitations on home cultivation of marijuana apply to both the home cultivation of marijuana for personal adult use by a person 21 years of age or older and the home cultivation of marijuana for personal medical use by a person 21 years of age or older who is a qualifying patient under the Maine Medical Use of Marijuana Act.

E. It retains the provisions of the Act relating to the consumption of marijuana and marijuana products as enacted by Public Law 2017, chapter 1.

F. It prohibits the home extraction of marijuana concentrate by use of inherently hazardous substances.

## **PART B**

Part B of the bill amends the Maine Nonprofit Corporation Act and the Maine Medical Use of Marijuana Act to authorize the conversion of a registered nonprofit dispensary into a reorganized registered dispensary, which may operate as a for profit dispensary pursuant to a registration issued by the Department of Health and Human Services under the Maine Medical Use of Marijuana Act and which may also apply for and be issued a license under the Act to operate an adult use marijuana establishment.

## **PART C**

Part C of the bill provides that possession of drug paraphernalia, as prohibited under Title 17-A, section 1111-A, does not apply to drug paraphernalia relating to the use of adult use marijuana by a person as authorized under the Act or to drug paraphernalia relating to the sale or offering for sale of marijuana by a licensed adult use marijuana store or adult use marijuana social club.

This part also amends state law concerning the Department of Public Safety, Maine State Police, State Bureau of Identification as necessary for the State Police and the State Bureau of Identification to conduct criminal history record checks on applicants for a license to operate an adult use marijuana establishment and on other persons as required under the Act.

## **PART D**

Part D of the bill implements changes to the state's municipal laws to ensure that plantations are provided the same powers and duties as cities and towns under the Act.

## **PART E**

Part E of the bill amends the state's tax laws as follows.

1. It provides for a 20% sales tax on adult use marijuana and adult use marijuana products to be imposed at the point of final sale to a consumer by a marijuana store or marijuana social club. Current law provides for a 10% sales tax on adult use marijuana and adult use marijuana products sold to a consumer by a marijuana store or marijuana social club.

2. It stipulates that all the revenue resulting from the imposition of the sales tax on adult use marijuana and adult use marijuana products must be deposited into the General Fund, except that:

A. 5% of all monthly tax revenue generated within each municipality by all marijuana stores and marijuana social clubs within that municipality must be distributed to that municipality;

B. 1% of the total monthly tax revenue generated statewide must be distributed in equal amounts to each municipality that had a cultivation facility, products manufacturing facility, marijuana store or marijuana social club in operation within the municipality during the prior month; and

C. 12 percent of the total monthly tax revenue generated statewide must be transferred to the Adult Use Marijuana Public Health and Safety Fund to be used by the department to facilitate public health and safety awareness and education programs, initiatives, campaigns and activities and enhanced law enforcement training programs for local, county and state law enforcement officers.



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH  
Mayor

SCOTT T. MORELLI  
City Manager

EMILY F. SCULLY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

**IN CITY COUNCIL  
RESOLVE #12-17/18**

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

**RESOLVED**, that the City Council of South Portland resolves to direct staff to present the following version of the Recreational Marijuana Zoning Ordinance for a first reading at the first City Council meeting in October:

- **Version 1A:** Allowing Home Occupation Cultivation and Allowing Social Clubs; or
- **Version 1B:** Allowing Home Occupation Cultivation and Disallowing Social Clubs; or
- **Version 2A:** Disallowing Home Occupation and Allowing Social Clubs; or
- **Version 2B:** Disallowing Home Occupation and Disallowing Social Clubs.

## Proposed Zoning Ordinance Amendments for Retail Marijuana Establishments **[and Social Clubs]**

Additions are underlined; deletions are ~~struck out~~.

### ARTICLE II. Definitions

#### Sec. 27-201. Definitions.

• • •

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 medical or retail 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.

• • •

*Home occupation.* An occupation or profession which is: Customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

- (a) The occupation or profession shall be carried on wholly within the principal building.
- (b) Not more than two (2) persons outside the family shall be employed in the home occupation.
- (c) There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this Chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- (d) No nuisance shall be generated, including but not necessarily limited to offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking.

(e) The home occupation shall not use more than twenty-five (25) per cent of the total floor area of the residential structure.

(f) The following are examples of permitted uses under this definition:

- (1) Office of doctor, dentist, lawyer, engineer, or member of similar recognized profession.
- (2) Office of teacher or musician.
- (3) Office of real estate broker or salesman or insurance agent.
- (4) Use of premises for dressmaking or millinery.
- (5) Letting of rooms or taking of boarders to a maximum of two (2) persons conducted by resident occupants only.
- (6) Family day care home.
- (7) Group day care home.
- (8) Retail marijuana cultivation facility with a plant canopy that does not exceed one hundred (100) square feet.

(g) The following uses are specifically prohibited:

- (1) Tourist camps, cabins, motels, hotels and mobile home parks.
- (2) Restaurants or other public eating places.

• • •

Plant canopy. "Plant canopy" as that term is defined in 7 M.R.S.A. § 2442(29), as may be amended.

• • •

Retail marijuana cultivation facility. A "retail marijuana cultivation facility" as that term is defined in 7 M.R.S.A. § 2442(35), as may be amended. A retail marijuana cultivation facility is an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs. Except for a retail marijuana cultivation facility with a plant canopy that does not exceed one hundred (100) square feet and that is conducted as a home occupation, a retail 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.

Retail marijuana establishment. A "retail marijuana establishment" as that term is defined in 7 M.R.S.A. § 2442(36), as may be amended. A retail marijuana establishment is a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, or a retail marijuana testing facility.

Retail marijuana products manufacturing facility. A "retail marijuana products manufacturing facility" as that term is defined in 7 M.R.S.A. § 2442(38), as may be amended. A retail marijuana products manufacturing facility is an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs. A retail 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.



Retail marijuana social club. A "retail marijuana social club" as that term is defined in 7 M.R.S.A. § 2442(39), as may be amended. A retail marijuana social club is an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. [OPTION A: A retail marijuana social club 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.] [OPTION B: A retail marijuana social club is prohibited in all zoning districts.]

Retail marijuana store. A "retail marijuana store" as that term is defined in 7 M.R.S.A. § 2442(40), as may be amended. A retail marijuana store is an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. A retail 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.

Retail marijuana testing facility. A "retail marijuana testing facility" as that term is defined in 7 M.R.S.A. § 2442(41), as may be amended. A retail marijuana testing facility is an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products. A retail 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.

• • •

#### ARTICLE V. Residential Districts

• • •

##### Sec. 27-502. Permitted uses (RF).

• • •

- (h) Accessory buildings and uses including roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, home occupations, and telecommunication antennas, except that such antennas may not be placed on exempt towers.
- (i) Medium- and large-scale ground-mounted solar energy systems.
- (j) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

• • •

##### Sec. 27-512. Permitted uses (AA).

• • •

- (c) Churches, parish houses, public or parochial schools, libraries, museums fire stations.

- (d) Accessory uses including roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, home occupations, and telecommunication antennas, except that such antennas may not be placed on exempt towers. Accessory uses shall not include any driveway giving access to business, commercial or industrial uses in any other district.
- (e) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

• • •

**Sec. 27-532. Permitted uses (A).**

- (e) Cable television facilities in existence on February 1, 1997 or for which an application has been submitted to the City by February 1, 1997, including studios and other buildings, structures or uses necessary or accessory to the operation of a cable television system, provided that such system be operated under a franchise from the City of South Portland. Cable television signal towers and transmitters in existence as of February 1, 1997 or for which an application has been submitted to the City by February 1, 1997, also are permitted; the installation after that date on such towers of telecommunication antennas, involving transmission as well as reception of radio waves, for public radio service, or common carrier services, is not permitted
- (f) Farmers' market located inside the former Hamlin School so long as the property is owned by the City.
- (g) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

• • •

**Sec. 27-552. Permitted uses (G).**

• • •

- (h) Accessory uses including roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, home occupations, and telecommunication antennas, except that such antennas may not be placed on exempt towers.
- (i) Any use permitted in Residential District A zone.
- (j) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

• • •

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

• • •

- (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.

• • •

**Sec. 27-572. Permitted uses (VR).**

- (c) Accessory uses including roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, home occupations, and telecommunication antennas, except that such antennas may not be placed on exempt towers.
- (d) Any use permitted in Residential District A zone under Sec. 27-532 Permitted Uses.
- (e) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

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

• • •

- (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**

• • •

**Sec. 27-702. Permitted uses (LB).**

- (h) Child, adult or combined day care centers.
- (i) Multiple/Mixed uses.

(j) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

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

• • •

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

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

(m) Retail marijuana store.

(n) Retail marijuana social club.

(o) 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.

• • •

**Sec. 27-711. Permitted uses (VC).**

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

(i) Multiple/Mixed uses.

(j) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

**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) Retail marijuana store.

(n) Retail marijuana social club.

(o) 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.

• • •

**Sec. 27-720. Permitted Uses (VCW).**

- (j) Educational services, including but not limited to adult, community, and after-school educational uses.
- (k) Artist studios.
- (l) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

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

• • •

- (g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (h) Medium-scale ground-mounted solar energy systems.
- (i) Retail marijuana store.
- (j) Retail marijuana social club.
- (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.

• • •

**Sec. 27-730. Permitted uses (SP).**

- (l) Accessory buildings and uses, including roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, and telecommunication antennas, except that such antennas may not be placed on exempt towers, and provided that no premises shall be used for both the washing of motor vehicles and the sale or dispensing of gasoline or any flammable liquids.
- (m) Piers and wharves used for permitted uses of this zoning district.
- (n) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

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

• • •

- (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) Retail marijuana store.
- (l) Retail marijuana social club.
- (m) 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.

• • •

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

- (g) Personal Services.
- (h) Medium-scale ground-mounted solar energy systems.
- (i) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.
- (j) Retail marijuana testing facility.

• • •

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

• • •

- (e) Telecommunication towers.
- (f) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (g) Retail marijuana products manufacturing facility.
- (h) Retail marijuana store.
- (i) Retail marijuana social club.
- (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.

• • •

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

• • •

- (j) Telecommunication towers. Site plan approval by the Planning Board is required.
- (k) Medium- and large-scale ground-mounted solar energy systems.
- (l) Retail marijuana cultivation facility.
- (m) Retail marijuana products manufacturing facility.
- (n) Retail marijuana store.
- (o) Retail marijuana social club.
- (p) Retail 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.

• • •

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

• • •

- (e) Child, adult or combined day care centers.
- (f) Medium-scale ground-mounted solar energy systems.
- (g) Retail marijuana cultivation facility.
- (h) Retail marijuana products manufacturing facility.
- (i) Retail marijuana store.
- (j) Retail marijuana social club.
- (k) Retail marijuana testing facility.
- (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.

• • •

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

• • •

- (m) Educational Services.
- (n) Medium-scale ground-mounted solar energy systems.
- (o) Retail marijuana cultivation facility.
- (p) Retail marijuana products manufacturing facility.

- (q) Retail marijuana store.
- (r) Retail marijuana social club.
- (s) Retail marijuana testing facility.
- (t) 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.

• • •

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

- (i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (k) Large-scale ground-mounted solar energy systems.
- (l) Retail marijuana cultivation facility.
- (m) Retail marijuana products manufacturing facility.
- (n) Retail marijuana store.
- (o) Retail marijuana social club.
- (p) Retail 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.

• • •

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

- (k) Charitable and philanthropic organizations.
- (l) Child, adult or combined day care centers.
- (m) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.
- (n) Retail marijuana testing facility.

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

• • •

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



- (j) Medium- and large-scale ground-mounted solar energy systems.
- (k) Retail marijuana cultivation facility.
- (l) Retail marijuana products manufacturing facility.
- (m) Retail marijuana store.
- (n) Retail marijuana social club.
- (o) 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.

• • •

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

(a) *Residential:*

• • •

- 5. Congregate housing individual unit ownership facilities.
- 6. Community homes.
- 7. Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

• • •

(c) *Commercial:*

- 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. Retail marijuana testing facility.

• • •

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

• • •

(b) *Commercial:*

- 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. Retail marijuana store.
5. Retail marijuana social club.
6. 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.

• • •

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

(a) *Residential uses*

• • •

5. Congregate housing individual unit ownership facilities.
6. Community Homes
7. Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

• • •

(c) *Commercial uses:*

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. Retail marijuana testing facility.

• • •

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

• • •

(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. Retail marijuana store.

3. Retail marijuana social club.

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.

(e) *Other uses:*

- a. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.
- b. Medium-scale ground-mounted solar energy systems.
- c. Retail marijuana products manufacturing facility.

• • •

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

(a) *Residential uses*

1. Live/work units including, but not limited to, artists' residences with studio space.
2. Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

(c) *Commercial uses:*

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. Retail marijuana testing facility.

• • •

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

• • •

(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. Retail marijuana store.

3. Retail marijuana social club.

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.

(e) *Other uses:*

a. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.

b. Medium- and large-scale ground-mounted solar energy systems.

c. Retail marijuana products manufacturing facility.

• • •

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

(a) *Residential uses*

• • •

5. Congregate care facilities, assisted living facilities, nursing homes, and similar facilities for the housing and care of senior citizens or people with disabilities.
6. Congregate housing individual unit ownership facilities.
7. Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

(c) *Commercial uses:*

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. Retail marijuana testing facility.

• • •

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

(b) *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:
  - (iv) The Planning Board may limit the percentage of area coverage;
  - (v) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
  - (vi) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

2. Retail marijuana store.

3. Retail marijuana social club.

• • •

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

(f) Retail marijuana products manufacturing facility.

(g) 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 IX. Industrial Districts

• • •

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

• • •

(l) Post-Secondary or adult educational Services.

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

(n) Retail marijuana cultivation facility.

(o) Retail marijuana products manufacturing facility.

(p) Retail 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.

• • •

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

• • •

(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) Retail marijuana cultivation facility.

(q) Retail marijuana products manufacturing facility.

(r) Retail 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.

• • •

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

• • •

(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) Retail marijuana cultivation facilities, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that the plant canopy does not exceed one hundred (100) square feet.

(6) Retail marijuana testing facility.

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

• • •

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

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

(i) Retail marijuana cultivation facility.

(j) Retail marijuana products manufacturing facility.

(k) Retail marijuana store.

(l) Retail marijuana social club.

(m) 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.

• • •

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

• • •

- (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) Retail marijuana cultivation facility.
- (9) Retail marijuana products manufacturing facility.
- (10) Retail 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.

• • •

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

- (a) Medium- and large-scale ground-mounted solar energy systems.
- (b) Retail marijuana store.
- (c) Retail marijuana social club.
- (d) 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.

• • •

**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).~~

~~• • •~~

#### ARTICLE XIX. MEDICAL AND RETAIL 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 retail 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 retail marijuana establishment for which an application has not been submitted and acted on by the Planning Board prior to January 1, 2017.

- (a) Relative to the performance standards contained in this section, a retail marijuana cultivation facility with a plant canopy that does not exceed one hundred (100) square feet and that is conducted as a home occupation need only comply with Sec. 27-1902(i) and Sec. 27-1902(j).
- (b) Separation from sensitive uses. No retail marijuana store [or social club] shall be sited within three hundred (300) feet of the lot lines of any of the following:
- (1) a church, synagogue or other house of religious worship; or
  - (2) a public or private school.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the retail marijuana store [or social club] 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 retail marijuana store [or social club] 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 retail marijuana store [or social club] 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 retail marijuana store [or social club] near a sensitive use listed in (1) or (2) above.

- (c) Hours of operation. Retail marijuana stores [or social club] 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 retail marijuana store [or social club] is located. When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.
- (d) Size limitation. The plant canopy of a retail marijuana cultivation facility shall not exceed ten thousand (10,000) square feet in area,

except that retail marijuana cultivation conducted as a home occupation shall not exceed one hundred (100) square feet.

- (e) Separation of retail marijuana stores [and social clubs]. No retail marijuana store [or social club] shall be sited within three hundred (300) feet of another retail marijuana store [and/or social club] as measured between the closest points of the storefronts.
- (f) Area of activities; control of odors and emissions; sealed walls; disposal plan.
- (1) All activities of retail marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Retail marijuana establishments are not permitted outdoor sales or services of any kind.
- (2) Odor management. For all retail 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. Retail marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Retail marijuana stores, [retail marijuana social clubs,] retail marijuana product manufacturing facilities, and retail 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 retail 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. Retail marijuana product manufacturing facilities and retail 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 retail marijuana establishment must be provided at all times.
- (5) All retail 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 retail 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.

- (g) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a retail 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.
- (h) Drive-through and home delivery. Retail marijuana stores are prohibited from having drive-through pick-up facilities, and from providing home delivery services. Retail marijuana customers may only purchase and obtain retail marijuana products from within a retail marijuana store.
- (i) 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 retail 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.
- (j) Other laws remain applicable. A retail 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 retail marijuana establishments, the stricter law or regulation shall control.

## Proposed Zoning Ordinance Amendments for Retail Marijuana Establishments

Additions are underlined; deletions are ~~struck out~~.

### ARTICLE II. Definitions

#### Sec. 27-201. Definitions.

• • •

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 medical or retail 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.

• • •

Plant canopy. "Plant canopy" as that term is defined in 7 M.R.S.A. § 2442(29), as may be amended.

• • •

Retail marijuana cultivation facility. A "retail marijuana cultivation facility" as that term is defined in 7 M.R.S.A. § 2442(35), as may be amended. A retail marijuana cultivation facility is an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs. A retail 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.

Retail marijuana establishment. A "retail marijuana establishment" as that term is defined in 7 M.R.S.A. § 2442(36), as may be amended. A retail marijuana establishment is a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, or a retail marijuana testing facility.



Retail marijuana products manufacturing facility. A "retail marijuana products manufacturing facility" as that term is defined in 7 M.R.S.A. § 2442(38), as may be amended. A retail marijuana products manufacturing facility is an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs. A retail 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.

Retail marijuana social club. A "retail marijuana social club" as that term is defined in 7 M.R.S.A. § 2442(39), as may be amended. A retail marijuana social club is an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. [OPTION A: A retail marijuana social club 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.] [OPTION B: A retail marijuana social club is prohibited in all zoning districts.]

Retail marijuana store. A "retail marijuana store" as that term is defined in 7 M.R.S.A. § 2442(40), as may be amended. A retail marijuana store is an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. A retail 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.

Retail marijuana testing facility. A "retail marijuana testing facility" as that term is defined in 7 M.R.S.A. § 2442(41), as may be amended. A retail marijuana testing facility is an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products. A retail 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.

• • •

## ARTICLE V. Residential Districts

• • •

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

• • •

(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.

• • •

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

• • •

(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**

• • •

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

• • •

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

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

(m) Retail marijuana store.

(n) Retail marijuana social club.

(o) 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.

• • •

**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) Retail marijuana store.

(n) Retail marijuana social club.

(o) 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.

• • •

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

• • •

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

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

(i) Retail marijuana store.

(j) Retail marijuana social club.

(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.

• • •

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

• • •

(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) Retail marijuana store.

(l) Retail marijuana social club.

(m) 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.

• • •

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

(g) Personal Services.

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

(i) Retail marijuana testing facility.

• • •

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

• • •

(e) Telecommunication towers.

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

(g) Retail marijuana products manufacturing facility.

(h) Retail marijuana store.

(i) Retail marijuana social club.

(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.

• • •

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

• • •

(j) Telecommunication towers. Site plan approval by the Planning Board is required.

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

(l) Retail marijuana cultivation facility.

(m) Retail marijuana products manufacturing facility.

(n) Retail marijuana store.

(o) Retail marijuana social club.

(p) Retail 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.

• • •

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

• • •

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

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

(g) Retail marijuana cultivation facility.

(h) Retail marijuana products manufacturing facility.

(i) Retail marijuana store.

(j) Retail marijuana social club.

(k) Retail marijuana testing facility.

(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.

• • •

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

• • •

(m) Educational Services.

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

(o) Retail marijuana cultivation facility.

(p) Retail marijuana products manufacturing facility.

(q) Retail marijuana store.

(r) Retail marijuana social club.

(s) Retail marijuana testing facility.

(t) 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.

• • •

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

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

(k) Large-scale ground-mounted solar energy systems.

(l) Retail marijuana cultivation facility.

(m) Retail marijuana products manufacturing facility.

(n) Retail marijuana store.

(o) Retail marijuana social club.

(p) Retail 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.

• • •

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

(k) Charitable and philanthropic organizations.

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

(m) Retail marijuana testing facility.

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

• • •

- (i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (j) Medium- and large-scale ground-mounted solar energy systems.
- (k) Retail marijuana cultivation facility.
- (l) Retail marijuana products manufacturing facility.
- (m) Retail marijuana store.
- (n) Retail marijuana social club.
- (o) 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.

• • •

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

• • •

- (c) *Commercial:*
  - 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. Retail marijuana testing facility.

• • •

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

• • •

- (b) *Commercial:*
  - 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. Retail marijuana store.

5. Retail marijuana social club.
6. 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.

• • •

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

• • •

*(c) Commercial uses:*

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. Retail marijuana testing facility.

• • •

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

• • •

*(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. Retail marijuana store.
3. Retail marijuana social club.

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.

(e) *Other uses:*

- a. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.
- b. Medium-scale ground-mounted solar energy systems.
- c. Retail marijuana products manufacturing facility.

• • •

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

• • •

(c) *Commercial uses:*

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. Retail marijuana testing facility.

• • •

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

• • •

(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. Retail marijuana store.

3. Retail marijuana social club.

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.

(e) *Other uses:*

a. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.

b. Medium- and large-scale ground-mounted solar energy systems.

c. Retail marijuana products manufacturing facility.

• • •

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

• • •

(c) *Commercial uses:*

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. Retail marijuana testing facility.

• • •

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

(b) *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:

(iv) The Planning Board may limit the percentage of area coverage;

- (v) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
- (vi) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

2. Retail marijuana store.

3. Retail marijuana social club.

• • •

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

(f) Retail marijuana products manufacturing facility.

(g) 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 IX. Industrial Districts**

• • •

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

• • •

(l) Post-Secondary or adult educational Services.

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

(n) Retail marijuana cultivation facility.

(o) Retail marijuana products manufacturing facility.

(p) Retail 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.

• • •

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

• • •

(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) Retail marijuana cultivation facility.
- (q) Retail marijuana products manufacturing facility.
- (r) Retail 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.

• • •

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

• • •

- (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) Retail marijuana testing facility.

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

• • •

- (g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (h) Medium- and large-scale ground-mounted solar energy systems.
- (i) Retail marijuana cultivation facility.
- (j) Retail marijuana products manufacturing facility.
- (k) Retail marijuana store.
- (l) Retail marijuana social club.
- (m) 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.

• • •

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

• • •

- (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) Retail marijuana cultivation facility.
- (9) Retail marijuana products manufacturing facility.
- (10) Retail 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.

• • •

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

- (a) Medium- and large-scale ground-mounted solar energy systems.
- (b) Retail marijuana store.
- (c) Retail marijuana social club.
- (d) 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.

• • •

**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).~~

~~• • •~~

#### ARTICLE XIX. MEDICAL AND RETAIL 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 retail 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 retail 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. No retail marijuana store [or social club] shall be sited within three hundred (300) feet of the lot lines of any of the following:

- (1) a church, synagogue or other house of religious worship; or  
(2) a public or private school.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the retail marijuana store [or social club] 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 retail marijuana store [or social club] 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 retail marijuana store [or social club] 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 retail marijuana store [or social club] near a sensitive use listed in (1) or (2) above.

- (b) Hours of operation. Retail marijuana stores [and social clubs] 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 retail marijuana store [or social club] 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 retail marijuana cultivation facility shall not exceed ten thousand (10,000) square feet in area.

- (d) Separation of retail marijuana stores [and social clubs]. No retail marijuana store [or social club] shall be sited within three hundred (300) feet of another retail marijuana store [and/or social club] 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 retail marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Retail marijuana establishments are not permitted outdoor sales or services of any kind.
- (2) Odor management. For all retail 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. Retail marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Retail marijuana stores, [retail marijuana social clubs,] retail marijuana product manufacturing facilities, and retail 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 retail 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. Retail marijuana product manufacturing facilities and retail 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 retail marijuana establishment must be provided at all times.
- (5) All retail 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 retail 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 retail 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. Retail marijuana stores are prohibited from having drive-through pick-up facilities, and from providing home delivery services. Retail marijuana customers may only purchase and obtain retail marijuana products from within a retail 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 retail 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) Other laws remain applicable. A retail 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 retail marijuana establishments, the stricter law or regulation shall control.