

City Council Workshop

Agenda Item #3

September 25, 2017

Retail Marijuana – Zoning & Licensing Ordinances

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.

Zoning (Ch. 27)

Feedback from Council at your August workshop found 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 zoning drafts — one with a home occupation cultivation use (Alternative #1) and one without a 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. Please note 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.

Licensing (Ch. 14)

As Council was not in majority agreement for several of its recommendations, staff has provided options for Council consideration, which are color-coded. Guidance is being sought regarding which version or amendments are needed to bring a single ordinance to first reading.

Highlighted in **light blue** are regulation options pertaining to the licensing of Retail Marijuana Products Manufacturing Facilities. One option does not require these facilities to be licensed, while the other offers options for licensing these establishments as a Class I industry. The licensing of testing facilities is not included in this draft, per majority Council recommendation from the last workshop on this topic that these establishments not be licensed.

Highlighted in **green** are regulation options pertaining to the licensing of Retail Marijuana Social Clubs. One option prohibits these businesses from operating in South Portland, while the other option offers options for licensing these establishments as a Class II industry (along with Retail Marijuana Cultivation Facilities and Retail Marijuana Stores).

The licensing of Class I establishments will be handled the way retail (off-premise) liquor licenses are issued, fully by the City Clerk. An ad shall be placed in a paper, however, no public hearing by Council is required to issue said license.

The licensing of Class II establishments is proposed to come before City Council for initial application for public hearing, the same way that on-premise liquor licenses are currently issued. Following initial approval, the City Clerk is the licensing authority for all renewals.

As part of the application process, both Class I and Class II establishments will require background checks from the corporate officers of the business, as well as annual inspections and approval by Fire, Police, Health, and Code.

The proposed annual fee schedule for these establishments, if allowed, which shall be made in a recommendation to the Master Fee Schedule, is \$2,100 for Social Clubs (Class II), \$1,400 for Retail Stores (Class II), \$600 for Retail Marijuana Cultivation Facilities (Class II), and \$300 for Retail Marijuana Products Manufacturing Facilities (Class I). These numbers are based off current alcohol licensing fee schedules.

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


City Manager



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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.

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.

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 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 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 or 1-800-452-8786.

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.

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Controlled Environment Agriculture. Commercial food production, wholly contained within a greenhouse or building, using computer managed control technologies to optimize growing systems. For purposes of the South Portland Code of Ordinances, controlled environment agriculture (CEA) includes aquaculture as well as such other techniques as hydroponics. CEA does not include 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.

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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.

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

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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.

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ARTICLE V. Residential Districts

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

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- (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.

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

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- (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.

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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.

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

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- (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.

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

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

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Sec. 27-572. 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).

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

ARTICLE VII. Mixed Use/Commercial Districts

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Sec. 27-702. 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).

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

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

(m) 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.

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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).

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(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.

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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).

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

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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).

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- (i) Medium-scale ground-mounted solar energy systems.
- (j) Large-scale ground-mounted solar energy systems on lots greater than or equal to three (3) acres.
- (k) 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.

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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.

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

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

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

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- (j) Telecommunication towers. Site plan approval by the Planning Board is required.
- (k) Medium- and large-scale ground-mounted solar energy systems.
- (l) 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.

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

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- (e) Child, adult or combined day care centers.
- (f) Medium-scale ground-mounted solar energy systems.
- (g) 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.

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

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- (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.

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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.

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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.

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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.

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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.

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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*

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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.

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ARTICLE IX. Industrial Districts

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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.

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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.

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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.

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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).~~

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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.

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Controlled Environment Agriculture. Commercial food production, wholly contained within a greenhouse or building, using computer managed control technologies to optimize growing systems. For purposes of the South Portland Code of Ordinances, controlled environment agriculture (CEA) includes aquaculture as well as such other techniques as hydroponics. CEA does not include 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.

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

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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.

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ARTICLE V. Residential Districts

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

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(h) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

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

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

• • •

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

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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.

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

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

(j) Large-scale ground-mounted solar energy systems on lots greater than or equal to three (3) acres.

(k) 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.

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

(g) Personal Services.

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

(i) Retail marijuana testing facility.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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ARTICLE IX. Industrial Districts

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

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(l) Post-Secondary or adult educational Services.

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

(n) 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.

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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.

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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.

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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.

light blue highlight = options re products manufacturing facilities

green highlight = options re social clubs

IN CITY COUNCIL

ORDINANCE #___-17/18

THE COUNCIL of the City of South Portland hereby ordains that Chapter 14, "Licenses, Permits and Business Regulations Generally," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (additions are underlined; deletions are struck-out):

Chapter 14

LICENSES, PERMITS AND BUSINESS REGULATIONS GENERALLY

ARTICLE I. IN GENERAL

• • •

Sec. 14-3. License regulations; schedule.

• • •

KEY TO SCHEDULE:

- CC Denotes license granted by City Council
- CLK Denotes license granted by City Clerk
- CMR Code of Maine Rules
- MRSA Denotes Maine Revised Statutes Annotated, as may be amended from time to time
- OY Denotes one year from date of issuance
- P Denotes Permit
- L Denotes License
- Police Denotes review of application by Police Department required prior to issuance or renewal, unless otherwise noted
- Fire Denotes review of application by Fire Department required prior to issuance or renewal, unless otherwise noted
- Health Denotes review of application by Health Officer required prior to issuance or renewal, unless otherwise noted
- CEO Denotes review of application by Code Enforcement Department required prior to issuance or renewal, unless otherwise noted
- Finance Denotes review of application by Finance Director required prior to issuance or renewal, unless otherwise noted
- Corp Denotes review of application by Corporation Counsel required prior to issuance or renewal, unless otherwise noted
- Water Denotes review of application by Water Resource Protection Department required prior to issuance or renewal, unless otherwise noted
- PW Denotes review of application by Public Works Department required prior to issuance or renewal, unless otherwise noted
- Parks Denotes review of application by Parks, Recreation & Waterfront Department required prior to issuance or renewal, unless otherwise noted

Business or Occupation	Reference	P/L	Granted by	Exp	Additional Review by
• • •	• • •	• • •	• • •	• • •	• • •

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Retail Marijuana	17 MRSA § 2441 et seq.; § 14-770 et seq.				
Retail Marijuana Cultivation Facility	17 MRSA § 2441 et seq.; § 14-770 et seq.	L	CC/CLK	OY	Police/Fire/Health/CEO if new license
OPTION A: Retail Marijuana Products Manufacturing Facility	17 MRSA § 2441 et seq.; § 14-770 et seq.	L	CC/CLK	OY	Police/Fire/Health/CEO if new license
OPTION B: Retail Marijuana Products Manufacturing Facility	N/A - License not required	N/A - License not required	N/A - License not required	N/A - License not required	N/A - License not required
OPTION A: Retail Marijuana Social Club	17 MRSA § 2441 et seq.; § 14-770 et seq.	L	CC/CLK	OY	Police/Fire/Health/CEO if new license
OPTION B: Retail Marijuana Social Club	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Retail Marijuana Store	17 MRSA § 2441 et seq.; § 14-770 et seq.	L	CC/CLK	OY	Police/Fire/Health/CEO if new license
Retail Marijuana Testing Facility	N/A - License not required	N/A - License not required	N/A - License not required	N/A - License not required	N/A - License not required
• • •	• • •	• • •	• • •	• • •	• • •

ARTICLE XVI. ~~MORATORIUM ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS~~

~~Sec. 14-770.—Moratorium declared.~~

~~WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act,” to be codified in the Maine Revised Statutes in Title 7, Chapter 417 (the “Act”), was adopted by the voters at a State-wide referendum election on November 8, 2016; and~~

~~WHEREAS, the Act, subject to a pending recount that may change the result of that referendum vote, will take effect 30 days after the Governor proclaims the official results of the election; and~~

~~WHEREAS, the Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the local option to prohibit or limit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and~~

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~~WHEREAS, the Act requires the Department of Agriculture, Conservation and Forestry (the “CAF Department”), as the State licensing authority for retail marijuana establishments and social clubs, to adopt rules within nine months of the effective date of the Act; and~~

~~WHEREAS, the Act authorizes municipalities to impose a separate local licensing requirement as part of their restrictions on time, place, manner and number of retail marijuana establishments and social clubs; and~~

~~WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421—2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and~~

~~WHEREAS, the City’s current Code of Ordinances does not include any licensing regulations related to retail marijuana establishments or retail marijuana social clubs; and~~

~~WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the City of South Portland raises legitimate and substantial questions about the impact of such establishments and social clubs on the City, including questions about the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the City’s public safety departments; and the adequacy of the City’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and~~

~~WHEREAS, the possible effect of the unregulated location and operation of retail marijuana establishments and/or retail marijuana social clubs within the City has potentially serious implications for the health, safety and welfare of the City and its residents; and~~

~~WHEREAS, the City needs time to review the Act and CAF Department rules proposed to be adopted pursuant to the Act and to review its own Code of Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and~~

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~~WHEREAS, the City's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated location and operation of retail marijuana establishments and social clubs authorized by the changes in law voted on at the November 8, 2016 referendum election, thereby necessitating a moratorium; and~~

~~WHEREAS, the City Council, with the professional advice and assistance of the City Clerk and such professional advice and assistance as it deems necessary and appropriate, shall study the City's current Code of Ordinances to determine the licensing and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and~~

~~WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by the changes in law voted on at the November 8, 2016 referendum election, being located in the City; and~~

~~WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the City enacts this moratorium on retail marijuana establishments and retail marijuana social clubs;~~

~~NOW, THEREFORE, the City of South Portland, acting through its City Council, does hereby ordain that the following Article be, and hereby is, enacted, and, in furtherance thereof, the City does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the City. This Article shall take effect in accordance with the provisions of the City Charter, but shall be applicable as of November 21, 2016, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Article, unless extended, repealed, or modified by the City Council, for the express purpose of drafting an amendment or amendments to Chapter 14 of the City's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in the City; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety departments serving the City in responding to the same; and the adequacy of the City's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the City.~~

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~~———— BE IT FURTHER ORDAINED, that this Article shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act to be codified at 7 M.R.S.A. §§ 2442(35), (36), (38), (39), (40) and (41), that may be proposed to be located within the City on or after the November 21, 2016 applicability date of this Article; and~~

~~BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Article, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a business license and/or any other required approval has not been submitted to and granted final approval by the City Clerk, City Council or other City official or board prior to November 21, 2016, the applicability date of this Article; and~~

~~BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the City on or after the November 21, 2016 applicability date of this Article without complying with whatever ordinance amendment or amendments the City Council may enact as a result of this Article; and~~

~~———— BE IT FURTHER ORDAINED, that during the time this moratorium is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license and/or any other required approval or any permits or approvals related to a retail marijuana establishment or retail marijuana social club under Chapter 14 of the Code of Ordinances; and~~

~~———— BE IT FURTHER ORDAINED, that those provisions of Chapter 14 of the Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and~~

~~BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana social clubs are established in violation of this Article, each day of any continuing violation shall constitute a separate violation of this Article, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and~~

~~———— BE IT FURTHER ORDAINED, that should any section or provision of this Article be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.~~

(Ord. No. 7-16/17, 11/21/16 [Fiscal Note: Less than \$1000])

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Sec. 14-771. Applicability date.

~~_____The applicability date of this Article is November 21, 2016.~~

~~(Ord. No. 7-16/17, 11/21/16 [Fiscal Note: Less than \$1000])~~

Sec. 14-772. Moratorium extended.

~~WHEREAS, a ballot initiative to legalize, regulate, and tax marijuana for non-medicinal purposes—known as the “Marijuana Legalization Act” and codified in the Maine Revised Statutes as Chapter 417 of Title 7 (“the Act”)—was the subject of a state-wide referendum election on November 8, 2016;~~

~~WHEREAS, the results of the ballot initiative were certified by the Secretary of State and subsequently proclaimed by the Governor on December 31, 2016, and the Act became law effective on January 30, 2017;~~

~~WHEREAS, applicable as of January 30, 2017, the Maine Legislature amended the Act to reflect that its operative provisions—including the provisions pertaining to State licensing and municipal regulation—do not become effective until February 1, 2018;~~

~~WHEREAS, pursuant to the Act, the State of Maine licensing authority must adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the Act on or before November 30, 2017;~~

~~WHEREAS, a moratorium on retail marijuana establishments and retail marijuana social clubs was enacted by the City Council on December 19, 2016 for a period of one hundred and eighty (180) days from the date of applicability of the moratorium, *i.e.*, until May 20, 2017;~~

~~WHEREAS, the Maine Legislature’s Joint Select Committee on Marijuana Legalization Implementation is working to help guide the state agencies that will craft the rules and regulations around the recreational marijuana industry;~~

~~WHEREAS, the State of Maine licensing authority that is to draft the rules and regulations around the recreational marijuana industry has not done so yet;~~

~~WHEREAS, the City needs to know the State of Maine regulatory framework for the recreational marijuana industry before it can determine the local licensing and other regulatory implications of retail marijuana establishments and social clubs and consider~~

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~~what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and~~

~~WHEREAS, the problems giving rise to the need for the moratorium still exist and reasonable progress is being made to alleviate the problems;~~

~~NOW, THEREFORE, the City of South Portland, acting through its City Council, does hereby ordain that all provisions of Secs. 14-770 and 14-771 are hereby extended for an additional one hundred and eighty (180) days from May 21, 2017 to November 16, 2017.~~

~~(Ord. No. 19-16/17, 5/1/17 [Fiscal Note: Less than \$1000])~~

Sec. 14-770. Purpose.

The purpose of this Article is to provide for and regulate the issuance of Local Licenses for Retail Marijuana Establishments [and Social Clubs] as defined in this Article and by the State of Maine under the Marijuana Legalization Act, 7 M.R.S.A. §§ 2441–2454, as may be amended.

Sec. 14-771. Authority.

This Article is adopted pursuant to the authority granted by 7 M.R.S.A. § 2449(4), as may be amended.

Sec. 14-772. Definitions.

As used in this Article, the following words and phrases shall have the meanings ascribed to them in this section.

Applicant shall mean a person that has submitted an application for licensure as a Retail Marijuana Establishment [or Social Club] pursuant to this Article.

Cannabis shall be as defined under State law, 7 M.R.S.A. § 2442(5), as may be amended.

Cultivate shall mean the preparation, planting, growing, harvesting, drying or processing of Marijuana or any part thereof.

Licensed premises shall mean the premises specified in an application for a State or Local License pursuant to this Article that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test Retail Marijuana in accordance with the provisions of this Article and the requirements of State law and regulations.

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Licensee shall mean a person licensed pursuant to this Article or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Article.

Local License shall mean any license required by and issued under the provisions of this Article.

Local Licensing Authority shall mean the City Clerk or the City Council, as further specified in the provisions of this Article.

Marijuana shall mean cannabis.

Marijuana concentrate shall mean the resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Natural person shall be as defined under State law, 7 M.R.S.A. § 2442(25), as may be amended.

Owner shall mean a person whose beneficial interest in a Retail Marijuana Establishment **or Social Club** is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Retail Marijuana Establishment **or Social Club** and has a controlling interest in a Retail Marijuana Establishment **or Social Club**.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Retail Marijuana shall be as defined under State law, 7 M.R.S.A. § 2442(34), as may be amended.

Retail Marijuana Cultivation Facility shall be as defined under State law, 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.

Retail Marijuana Establishment shall be as defined under State law, 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.

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Retail Marijuana Product shall be as defined under State law, 7 M.R.S.A. § 2442(37), as may be amended. It includes marijuana concentrate and retail marijuana products that are composed of Retail Marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

Retail Marijuana Products Manufacturing Facility shall be as defined under State law, 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.

Retail Marijuana Social Club shall be as defined under State law, 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.

Retail Marijuana Store shall be as defined under State law, 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.

Retail Marijuana Testing Facility shall be as defined under State law, 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.

State License shall mean any license issued by the State Licensing Authority.

State Licensing Authority shall mean the authority created by the State for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of Retail Marijuana and Retail Marijuana Products in this State.

Sec. 14-773. Retail Marijuana Establishments [and Social Clubs].

Retail Marijuana Establishments [and Social Clubs] shall be allowed, subject to the requirements and restrictions of this Chapter and Chapter 27 of this Code.

Sec. 14-774. Prohibited Activities.

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(a) No Retail Marijuana Establishment **for Social Club** shall be established or operated within the City without first receiving and then maintaining all approvals required under this Code, including, but not limited to, this Chapter and Chapter 27 of the Code.

(b) No Retail Marijuana Establishment **for Social Club** shall conduct any activity for which it has not received the required State License and Local License.

[(c) Retail Marijuana Social Clubs are prohibited within the City.]

Sec. 14-775. License Required.

(a) State License. A Retail Marijuana Establishment **for Social Club** shall not operate until it is licensed by the State Licensing Authority pursuant to the requirements of 7 M.R.S.A. § 2447, as may be amended. An Applicant may not operate a Retail Marijuana Establishment **for Social Club** without a State License and all other necessary City approvals.

(b) Local License. A Local License issued under the provisions of this Article is required for any Retail Marijuana Cultivation Facility, **Retail Marijuana Products Manufacturing Facility,** Retail Marijuana Store, **or Retail Marijuana Social Club.** A Retail Marijuana Testing Facility does not require a Local License.

Sec. 14-776. License Classes.

(a) A Class I license shall be required for **Retail Marijuana Products Manufacturing Facilities.**

(b) A Class II license shall be required for Retail Marijuana Cultivation Facilities and Retail Marijuana Stores **and Social Clubs.**

Sec. 14-777. Licensing Authority.

(a) Class I licensing procedures.

(1) All Class I license applications, whether new or renewal, shall be reviewed and may be approved by the City Clerk. Application shall be made on a form prepared by the City and must include all information required by Sec. 14-779 of this Article and by the form. Prior to action on a Class I application, the City Clerk shall give public notice of the application by posting a sign in a conspicuous place on the premises identified in an Application for Local License at least seven (7) days prior to action and by

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publication in a newspaper of general circulation in Cumberland County at least seven (7) days prior to action.

(2) A Class I renewal application shall be subject to the same review standards and notice requirements as applied to the initial issuance of the license. As part of the renewal process, the City Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the City Clerk determines that a hearing on a Class I renewal application is necessary and appropriate, the City Clerk may elect to defer action on a renewal application and refer the matter to the City Council for public hearing and action.

(b) Class II licensing procedures.

(1) The initial application for a Class II license shall be processed by the City Clerk but reviewed and may be approved by the City Council. Application shall be made on a form prepared by the City and must include all information required by Sec. 14-779 of this Article and by the form.

(2) Public hearing. A public hearing on an application for a Class II license shall be scheduled after receipt of a completed application pursuant to Sec. 14-779. The City Clerk shall post and publish public notice of the hearing not less than seven (7) days prior to the hearing. The City Clerk shall give public notice by posting a sign in a conspicuous place on the premises identified in an Application for Local License and by publication in a newspaper of general circulation in Cumberland County.

(3) A Class II renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a Class I new application. As part of the renewal process, the City Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the City Clerk determines that a hearing on a Class II renewal application is necessary and appropriate, the City Clerk may elect to defer action on a renewal application and refer the matter to the City Council for public hearing and action.

(c) Responsibilities and review authority.

(1) The City Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article. The City Clerk may consult with other City Departments and any appropriate State Licensing Authority as part of this investigation.

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- (2) The Licensing Authority shall have the authority to impose any conditions on a license that may be necessary to insure compliance with the requirements of this Chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- (3) No Local License shall be granted by the Licensing Authority until the Police Chief, the Fire Chief, the Health Inspector and, if applicable, the Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this Article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the City authorized to make the inspection at any reasonable time that admission is requested.

Sec. 14-778. License Fees.

Fees for a Local License shall be as set forth in the Schedule of License, Permit, Inspection and Application Fees established by City Council order and shall be paid annually.

Sec. 14-779. Application.

- (a) Application required. Each Applicant for a Class I or Class II license shall complete and file an application on a form prescribed by the City Clerk, together with a license fee as required by Sec. 14-778 of this Article and as specified in the Schedule of License, Permit, Inspection and Application Fees, together with the following submissions:
1. A copy of the Applicant's State License Application and supporting documentation as filed with the State Licensing Authority, and any amendments thereto.
 2. Evidence of all State approvals or conditional approvals required to operate a Retail Marijuana Establishment [or Social Club], including, but not limited to, a State License as defined by this Article, a State retail certificate, or a State health license.
 3. If not included in the Applicant's State License Application, attested copies of the articles of incorporation and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability

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company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.

4. If not included in the Applicant's State License Application, an affidavit that identifies all owners, officers, members, managers, or partners of the Applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three (3) years.
5. If not included in the Applicant's State License Application, a release authorized by 16 M.R.S.A. § 620(6), as may be amended, with the application for each Applicant and for each officer, owner, member, manager, or partner of the Applicant seeking a Local License.
6. Evidence of all land use approvals or conditional land use approvals required to operate a Retail Marijuana Establishment [or Social Club] pursuant to the Code of Ordinances, including, but not limited to, a building permit, special exception approval, site plan approval, change of use permit or certificate of occupancy.
7. Evidence of all other local approvals or conditional approvals required to operate a Retail Marijuana Establishment [or Social Club] pursuant to the Code of Ordinances, including, but not limited to, food license or victualer's license.
8. A description of the premises for which the Local License is sought, including a plan of the premises.

(b) Complete application. In the event that the City Clerk determines that a submitted application is not complete, the City Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

Sec. 14-780. License Expiration and Renewal.

- (a) Each Local License issued shall be effective for one year from the date of issuance.
- (b) Renewal applications must be submitted prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.

Sec. 14-781. Denial, Suspension or Revocation of License.

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In addition to the provisions set forth in Sec. 14-8 of this Chapter, the following applies:

(a) A Local License under this Article shall be denied to the following persons:

(1) A person who fails to meet the requirements of this Article. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.

(2) A person who has had a license for a Retail Marijuana Establishment **or Social Club** revoked by the City or by the State.

(3) An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.

(b) The City may suspend or revoke a license for any violation of this Chapter, Chapter 27 or any other applicable building and life safety code requirements. The City may suspend or revoke a license if the licensee has a State License for a Retail Marijuana Establishment **or Social Club** suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation.

Sec. 14-782. Operating Requirements.

The Licensee shall comply with all of the following requirements during the term of the Local License:

(a) Display of License. The current Local License shall be displayed at all times in a conspicuous location within the Licensed Premises.

(b) Location. All Licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Retail Marijuana Establishments **or Social Clubs** in temporary locations such as mall kiosks or farm stands.

(c) Compliance with other laws. A Retail Marijuana Establishment **and Social Club** 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 **or Social Clubs**, the stricter law or regulation shall control.

Sec. 14-783. Transfer of Ownership and Change of Location.

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Licenses issued under this Article are not transferable to a new owner. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location.

Sec. 14-784. Appeals.

- (a) Any appeal of a decision of the City Clerk under the provisions of this Article shall be made to the City Council. The City Council shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the application meets the requirements of this Article.
- (b) Any appeal of a decision of the City Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

Sec. 14-785. Violations and Penalties.

The operation of any Retail Marijuana Establishment [or Social Club] without the required Local License or in violation of the requirements of this Chapter shall be a violation of this Chapter. Violations shall be subject to fines as set forth in this Chapter. Each day of a violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of Sec. 14-781 of this Article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its attorney's fees.

Sec. 14-786. Severability.

The provisions of this Article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Sec. 14-787. Other Laws.

Except as otherwise specifically provided herein, this Article incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 7 M.R.S.A. §§ 2441–2454, as may be amended. In the event of a conflict between the provisions of this Chapter and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

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Sec. 14-788. Effective Date.

This Article shall take effect pursuant to the City Charter. However, no application for any Local License shall be acted upon until the effective date of regulations promulgated and adopted pursuant to 7 M.R.S.A. § 2444(2), as may be amended.