

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

**Sec. 27-1901. Performance standards for home cultivation of marijuana for personal adult use.**

The total number of mature plants that may be cultivated on any one parcel or tract of land located within the City is limited to 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled at that parcel or tract of land.

(Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than \$1000])

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

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

All marijuana establishments and medical marijuana establishments require site plan review and approval from the Planning Board prior to the issuance of any building permit or certificate of occupancy. The following performance standards are to be used by the Planning Board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

- (a) Separation from sensitive uses. (1) No marijuana store, medical marijuana retail store or medical marijuana dispensary shall be sited within one thousand (1,000) feet of the lot lines of a school, and (2) no marijuana store, medical marijuana retail store or medical marijuana dispensary shall be sited within three hundred (300) feet of the lot lines of a child care facility, community center, higher educational facility, large public outdoor recreational facility, church, synagogue or other house of religious worship.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the marijuana store, medical marijuana retail store or medical marijuana dispensary and the lot line of the site of the use listed in (1) or (2) above at their closest points. For purposes of this measurement, if a marijuana store, medical marijuana retail store or medical marijuana dispensary is to be located on a site that is leased from an unrelated third party, such as establishment's lot line shall be determined as follows:

- (i) If the establishment leases an entire parcel of land, the lot line of such establishment shall be the lot line of the parcel;
- (ii) If the establishment leases a freestanding building or buildings which is or are part of a larger parcel containing

other free standing buildings, the lot line of such establishment shall be the outer wall of the building(s) being leased by the establishment; and

- (iii) If the establishment leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the lot line of such establishment shall be the outer wall of the building within which such room or suite of rooms is located.

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

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

For purposes of this section, the term "school" means a "public school" as that term is defined in 20-A M.R.S. § 1(24), as may be amended; a "private school" as that term is defined in 20-A M.R.S. § 1(22), as may be amended; and/or a "public preschool program" as that term is defined in 20-A M.R.S. § 1(23-A), as may be amended.

For purposes of this section, the term "child care facility" means a "child care facility" as that term is defined in 22 M.R.S. § 8301-A(1-A)(B), as may be amended, and/or a "family child care provider" as that term is defined in 22 M.R.S. § 8301-A(1-A)(C), as may be amended.

For purposes of this section, the term "community center" means a building used to provide before or after care to children age 18 or younger that is owned and operated by a municipality or a non-profit corporation.

For purposes of this section, the term "higher education facility" means a community college, college or university authorized by the State of Maine to award associate, baccalaureate or higher degrees.

For purposes of this section, the term "large public outdoor recreational facility" means a place designed and used for athletic fields that is at least 50 acres in size and is owned and operated by a governmental agency.

- (b) Hours of operation. Marijuana stores, medical marijuana retail stores and medical marijuana dispensaries 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 store is located.

When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.

- (c) Size limitation. The plant canopy of a marijuana cultivation facility or medical marijuana cultivation facility shall not exceed ten thousand (10,000) square feet in area.
- (d) Separation of marijuana stores, medical marijuana retail stores and medical marijuana dispensaries. No marijuana store, medical marijuana retail store or medical marijuana dispensary shall be sited within three hundred (300) feet of another marijuana store, medical marijuana retail store or medical marijuana dispensary as measured from the main entrance of one to the main entrance of the other by the ordinary course of travel.
- (e) Area of activities; control of odors and emissions; sealed walls; disposal plan; security.
  - (1) All activities of marijuana establishments and medical marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.
  - (2) Odor management. For all marijuana establishments and medical marijuana establishments, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:
    - (a) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.
    - (b) A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.
    - (c) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.
      - (i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.

- (ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana cultivation facilities and medical marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Marijuana stores, medical marijuana retail stores, marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments and medical marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

- (3) Noxious gases and fumes. Marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
- (4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment or medical marijuana establishment must be provided at all times.
- (5) All marijuana establishments and medical marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.
- (6) Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:

- (a) 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;
- (b) 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 order;
- (c) a locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana product, medical marijuana product and cash stored overnight on the premises;
- (d) exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Code of Ordinances; and
- (e) 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. All marijuana establishments and medical marijuana establishments 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 establishment.

- (f) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment or medical marijuana establishment except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (g) Drive-through and home delivery. Marijuana stores, medical marijuana retail stores and medical marijuana dispensaries are prohibited from having drive-through pick-up facilities. Marijuana stores and medical marijuana retail stores are prohibited from providing home delivery services; provided, however, that medical marijuana registered caregivers (and not medical marijuana assistants unless they are also medical marijuana registered caregivers) may provide home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.
- (h) In accordance with Sec. 32-5(A) of the Code of Ordinances, relating to allowed and prohibited pesticides, the only pesticides allowed to be used in marijuana establishments or medical marijuana establishments 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) Manufacture of marijuana. Any medical marijuana qualifying patient, medical marijuana caregiver or medical marijuana dispensary that intends to manufacture marijuana shall only do so if such activity is located in a zoning district where medical marijuana products manufacturing is a permitted or special exception use. The extraction of marijuana using inherently dangerous substances is prohibited unless (a) the person has sought and obtained a registration to do so with the State of Maine, and (b) such activity is located in a zoning district where marijuana products manufacturing and/or medical marijuana products manufacturing is a permitted or special exception use.
- (j) Inspections. The Code Enforcement Officer or his/her designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this Ordinance, local and state building codes and electrical codes. The Fire Chief or his/her designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the requirements of Chapter 8 of the Code of Ordinances and all applicable fire codes. The initial inspection shall occur after the establishment is ready for operation. But no marijuana, marijuana products or medical marijuana products will be allowed on the premises until the inspection is complete and a Certificate of Occupancy has been issued. Nothing herein shall prevent the Fire Chief or his/her designee from inspecting marijuana establishments and medical marijuana establishments at random intervals and without advance notice provided that the inspection is during normal business hours of the establishment.
- (k) Change of use/addition of use. If any type of marijuana establishment or medical marijuana establishment wants to change to another type of establishment or to add another type of marijuana establishment or medical marijuana establishment to its existing operations, such change of use or additional use must be reviewed and approved by the Planning Board for compliance with this Ordinance.
- (l) Marijuana social clubs are prohibited in all zoning districts.
- (m) Other laws remain applicable. A marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future

any stricter law or regulation governing adult use marijuana and/or marijuana establishments, the stricter law or regulation shall control.

(Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than \$1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than \$1000])