



CITY OF SOUTH PORTLAND

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At Large
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IN CITY COUNCIL

**ORDINANCE #2-18/19
(as amended on 11/20/18)**

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

CHAPTER 27

ZONING

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ARTICLE II. Definitions

Sec. 27-201. Definitions.

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

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

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Harvested marijuana. "Harvested marijuana" as that term is defined in 22 M.R.S.A. § 2422(3-C), as may be amended.

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Immature marijuana plant. An “immature marijuana plant” as that term is defined in 28-B M.R.S.A. § 102(19), as may be amended.

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Inherently hazardous substance. “Inherently hazardous substance” means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. “Inherently hazardous substance” does not include any form of alcohol or ethanol.

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Manufacture or manufacturing of marijuana. “Manufacture” or “manufacturing” of marijuana means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

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

Marijuana concentrate. “Marijuana concentrate” means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

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

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

Marijuana extraction. “Marijuana extraction” means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Marijuana plant. “Marijuana plant” means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants.

Marijuana products manufacturing facility. A “products manufacturing facility” as that term is defined in 28-B M.R.S.A. § 102(4243), as may be amended. A marijuana products manufacturing facility is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to

sell adult use marijuana products from a marijuana cultivation facility only to other marijuana products manufacturing facilities, marijuana stores and marijuana social clubs. A marijuana products manufacturing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

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

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

Marijuana testing facility. A “testing facility” as that term is defined in 28-B M.R.S.A. § 102(5354), as may be amended. A marijuana testing facility is facility licensed to develop, research and test marijuana, adult use marijuana products and other substances. A marijuana testing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

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Mature marijuana plant. A “mature marijuana plant” as that term is defined in 28-B M.R.S.A. § 102(36), as may be amended.

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Medical marijuana. The medical use of marijuana, with the term “medical use” as defined in 22 M.R.S.A. § 2422(5), as may be amended.

Medical marijuana assistant. An “assistant” as that term is defined in 22 M.R.S.A. § 2422(1-D), as may be amended.

Medical marijuana caregiver. A “caregiver” as that term is defined in 22 M.R.S.A. § 2422(8-A), as may be amended.

Medical marijuana cultivation area. A “cultivation area” as that term is defined in 22 M.R.S.A. § 2422(3), as may be amended.

Medical marijuana cultivation facility. A medical marijuana cultivation area used or occupied by one or more medical marijuana registered caregivers. A medical 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. A medical marijuana cultivation facility is prohibited from selling medical marijuana to medical marijuana qualifying patients, medical marijuana caregivers or medical marijuana registered caregivers on premise. A medical marijuana cultivation facility shall not be used or occupied by a “collective” as that term is defined in 22 M.R.S.A. § 2422(1-A), as may be amended.

Medical marijuana dispensary. A “registered dispensary” as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended. ~~A medical marijuana dispensary includes a location at which marijuana is cultivated by a registered dispensary pursuant to 22 M.R.S.A. § 2428, as may be amended.~~ A medical marijuana dispensary is not a medical office or a professional office and is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a special exception use.

Medical marijuana establishment. A medical marijuana establishment is a medical marijuana dispensary, a medical marijuana cultivation facility, a medical marijuana retail store, a medical marijuana products manufacturing facility, or a medical marijuana testing facility.

Medical marijuana product. “Marijuana product” as that term is defined in 22 M.R.S.A. § 2442(4-L), as may be amended.

Medical marijuana products manufacturing facility. A “manufacturing facility” as that term is defined in 22 M.R.S.A. § 2422(4-H), as may be amended. A medical 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.

Medical marijuana qualifying patient. A “qualifying patient” as that term is defined in 22 M.R.S.A. § 2422(9), as may be amended.

Medical marijuana registered caregiver. A “registered caregiver” as that term is defined in 22 M.R.S.A. § 2422(11), as may be amended.

Medical marijuana registered patient. A “registered patient” as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended.

Medical marijuana retail store. A medical marijuana store is a retail establishment operated by a single medical marijuana registered caregiver where harvested marijuana is sold by that medical marijuana registered caregiver to medical marijuana qualifying patients for patients’ medical use and may include an area for consultation with patients. Two or more medical marijuana registered caregivers are prohibited from forming, owning or operating a medical marijuana retail store as a single medical marijuana retail store. A medical marijuana retail 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.

Medical marijuana testing facility. A “marijuana testing facility” as that term is defined in 22 M.R.S.A. § 2422(5-C), as may be amended. A medical marijuana testing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

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Plant canopy. “Plant canopy” as that term is defined in 28-B M.R.S.A. § 102(4041), as may be amended.

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Seedling. “Seedling” as that term is defined in 28-B M.R.S.A. § 102(51), as may be amended.

ARTICLE VII. Mixed Use/Commercial Districts

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

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- (k) Farmers’ market subject to the provisions of Sec. 27-1580 et seq.
- (l) Medium- and large-scale ground-mounted solar energy systems.
- (m) Marijuana store or medical marijuana retail store.
- (n) Medical marijuana dispensary without on-site medical marijuana cultivation facility.
- (~~no~~) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

• • •

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

- (l) Medium-scale ground-mounted solar energy systems.
- (m) Marijuana store or medical marijuana retail store.
- (n) Medical marijuana dispensary without on-site medical marijuana cultivation facility.
- ~~(no)~~ Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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- (g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (h) Medium-scale ground-mounted solar energy systems.
- (i) Marijuana store or medical marijuana retail store.
- (j) Medical marijuana dispensary without on-site medical marijuana cultivation facility.
- ~~(jk)~~ Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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- (i) Medium-scale ground-mounted solar energy systems.
- (j) Large-scale ground-mounted solar energy systems on lots greater than or equal to three (3) acres.
- (k) Marijuana store or medical marijuana retail store.
- (l) Medical marijuana dispensary without on-site medical marijuana cultivation facility.

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

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

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

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

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- (e) Telecommunication towers.
- (f) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (g) Large-scale ground-mounted solar energy systems.
- (h) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (i) Marijuana store or medical marijuana retail store.
- (j) Medical marijuana dispensary without on-site medical marijuana cultivation facility.
- (jk) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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- (j) Telecommunication towers. Site plan approval by the Planning Board is required.
- (k) Medium- and large-scale ground-mounted solar energy systems.
- (l) Marijuana cultivation facility or medical marijuana cultivation facility.
- (m) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (n) Marijuana store or medical marijuana retail store.
- (o) Marijuana testing facility or medical marijuana testing facility.
- (p) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.
- (pg) 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. 27-751. Special exceptions (CG).

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- (k) ~~Medical marijuana dispensary.~~ [RESERVED]

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

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- (e) Child, adult or combined day care centers.
- (f) Medium-scale ground-mounted solar energy systems.
- (g) Marijuana cultivation facility or medical marijuana cultivation facility.
- (h) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (i) Marijuana store or medical marijuana retail store.

- (j) Marijuana testing facility or medical marijuana testing facility.
- (k) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.
- (kl) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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- (k) Educational Services.
- (l) Medium-scale ground-mounted solar energy systems.
- (m) Marijuana cultivation facility or medical marijuana cultivation facility.
- (n) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (o) Marijuana store or medical marijuana retail store.
- (p) Marijuana testing facility or medical marijuana testing facility.
- (q) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.
- (qr) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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- (m) Educational Services.
- (n) Medium-scale ground-mounted solar energy systems.
- (o) Marijuana cultivation facility or medical marijuana cultivation facility.

- (p) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (q) Marijuana store or medical marijuana retail store.
- (r) Marijuana testing facility or medical marijuana testing facility.
- (s) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.
- (st) 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. 27-773. Special exceptions (CCR).

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- (i) ~~Medical marijuana dispensary.~~ [RESERVED]

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

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- (k) Charitable and philanthropic organizations.
- (l) Child, adult or combined day care centers.
- (m) Marijuana testing facility or medical marijuana testing facility.

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

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- (i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (j) Medium- and large-scale ground-mounted solar energy systems.
- (k) Marijuana cultivation facility or medical marijuana cultivation facility.

- (l) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (m) Marijuana store or medical marijuana retail store.
- (n) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.
- (no) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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(c) *Commercial:*

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- 4. Personal and business services.
- 5. Restaurants and other places for the serving of food or beverages, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.
- 6. Marijuana testing facility or medical marijuana testing facility.

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Sec. 27-802 Special Exceptions (MSCC).

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(b) *Commercial:*

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- 2. Motor vehicle repair shops provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.

3. Farmers' markets subject to the provisions of Sec. 27-1580 et seq.
4. Marijuana store or medical marijuana retail store.
5. Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.
56. Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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

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(c) *Commercial uses:*

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

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

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(a) *Commercial:*

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

- (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.
- 2. Marijuana store or medical marijuana retail store.
- 3. Medical marijuana dispensary without on-site medical marijuana cultivation facility.
- 34. Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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(e) *Other uses:*

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

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

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(c) *Commercial uses:*

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

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

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(a) *Commercial:*

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
 - (i) The Planning Board may limit the percentage of area coverage;
 - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
 - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.
2. Marijuana store or medical marijuana retail store.
3. Medical marijuana dispensary without on-site medical marijuana cultivation facility.
34. Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.

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(e) *Other uses:*

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

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

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(c) *Commercial uses:*

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

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

(a) *Commercial:*

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

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(e) *Other uses:*

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- (2) Medium- and large-scale ground-mounted solar energy systems.
- (3) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.

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Sec. 27-842. Permitted uses (WNC).

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- (o) Marijuana testing facility or medical marijuana testing facility.

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Sec. 27-843. Special exception uses (WNC).

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- (e) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (f) Marijuana store or medical marijuana retail store.

Sec. 27-852. Permitted uses (WACC).

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- (m) Marijuana testing facility or medical marijuana testing facility.

Sec. 27-853. Special exception uses (WACC).

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- (h) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.

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- (n) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (o) Marijuana store or medical marijuana retail store.

Sec. 27-862. Permitted Uses (MHCC).

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- (f) *Other:*

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- 4. Marijuana testing facility or medical marijuana testing facility.

Sec. 27-863. Special exception uses (MHCC).

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(b) *Commercial:*

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4. Marijuana store or medical marijuana retail store.

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(f) *Other:*

1. Marijuana products manufacturing facility or medical marijuana products manufacturing facility.

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ARTICLE IX. Industrial Districts

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

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(l) Post-Secondary or adult educational Services.

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

(n) Marijuana cultivation facility or medical marijuana cultivation facility.

(o) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.

(p) Marijuana testing facility or medical marijuana testing facility.

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

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

however, that any such storing and handling of petroleum and/or petroleum products shall not include the bulk loading of crude oil onto any marine tank vessel.

- (o) Medium-scale ground-mounted solar energy systems.
- (p) Marijuana cultivation facility or medical marijuana cultivation facility.
- (q) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (r) Marijuana testing facility or medical marijuana testing facility.

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

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- (3) Any use permitted in Commercial District C Zone provided that all residential uses shall meet the space and bulk regulations set forth in Sec. 27-946.
- (4) Child, adult or combined day care centers.
- (5) Marijuana testing facility or medical marijuana testing facility.

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

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- (g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- (h) Medium- and large-scale ground-mounted solar energy systems.
- (i) Marijuana cultivation facility or medical marijuana cultivation facility.
- (j) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (k) Marijuana store or medical marijuana retail store.
- (l) Medical marijuana dispensary with or without on-site medical marijuana cultivation facility.

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

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- (6) Meteorological tower (MET tower) on property identified by the City of South Portland as Assessor's Map 56, Lot 4D.
- (7) Medium- and large-scale ground-mounted solar energy systems.
- (8) Marijuana cultivation facility or medical marijuana cultivation facility.
- (9) Marijuana products manufacturing facility or medical marijuana products manufacturing facility.
- (10) Marijuana testing facility or medical marijuana testing facility.
- (11) Medical marijuana dispensary with or without on-site medical marijuana cultivation 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. 27-963. Special exceptions (INR).

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- (8) ~~Medical marijuana dispensary.~~ [RESERVED]

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Sec. 27-1203.5 Special Exceptions (CAZ).

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- (a) Medium- and large-scale ground-mounted solar energy systems.
- (b) Marijuana store or medical marijuana retail store.

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Sec. 27-1901. ~~Performance standards for medical marijuana dispensaries.~~Performance standards for home cultivation of marijuana for personal adult use.

The total number of mature marijuana 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.

~~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 qualifying patients and primary medical marijuana caregivers.~~

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

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

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

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

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

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

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

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

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

~~(g) Visibility of activities; control of emissions; disposal plan.~~

~~(1) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.~~

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

Sec. 27-1902. Performance standards for marijuana establishments 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 public or private 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 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 school 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 educational 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 ~~marijuana~~ store is located. When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.
- (c) Size limitation. The plant canopy of a marijuana cultivation facility 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 ~~between the closest points of the storefronts~~ 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 perceptible at the exterior of the building at the premises or at any adjoining use of the property 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, and 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, and 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 condition;
 - (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 and 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 cultivation facilities~~ 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 is 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 or medical 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, and medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Fiscal Note: Less than \$1,000

Date: August 21, 2018