

Proposed Amendments to the Land Use Code Dealing with Marijuana Establishments

Proposed additions to the ordinance are underlined;
proposed deletions are ~~struck-out~~.

1. Amend Section 6.3.1 to read:

6.3.1 Waiver of Submission Requirements

The CEO or Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in Sections 6.3.2, 6.3.3 and 6.3.4 provided such waiver will not unduly restrict the review process. The CEO or Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the CEO or Planning Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the CEO or Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

6.3.1.1 The following submission requirements of 6.3 are automatically waived for an application for the establishment or expansion of a marijuana establishment in accordance with 6.2.3.2.9 if the proposed activity does not otherwise require Planning Board or Site Plan approval:

6.3.1.1.1 The requirements of 6.3.2.7.1

6.3.1.1.2 The requirements of 6.3.2.7.2 other than those of items 5, 6, 7 and 8 if applicable to the application

6.3.1.1.3 The requirements of 6.3.3

2. Amend Section 10.29.1 to read:

10.29.1 Any property line of the lot upon which a marijuana establishment is located shall be a minimum of one thousand (1,000) feet from any property line of a lot upon which a public or private school, daycare center/nursery school, athletic field or playground is located. A "school" includes public school, private school, or public preschool program as defined in 20-A M.R.S §1, or any other

educational facility including commercial schools that serve children that are less than eighteen (18) years old; ~~provided however, a functional equivalent minimum setback of five hundred (500) feet may apply provided that the Planning Board finds that any of the following are met:~~

~~10.29.1.1 The location of the buildings or areas actively used on either or both lots results in the entrance to the marijuana establishment being more than one thousand (1,000) feet from the area of the protected lot that is actively used or that provides access to the building or facilities; or~~

~~10.29.1.2 The marijuana establishment is physically separated from the protected lot by a natural physical feature that makes pedestrian access between the two lots impractical.~~

3. Amend 10.29.3 to read:

10.29.3 Any property line of the lot upon which a Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility is located shall be a minimum of five hundred (500) feet from any property line of a lot upon which any other existing Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility is located. The primary customer or registered patient entrance to a Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility shall not be located within five hundred (500) feet of the primary customer or registered patient entrance of an existing Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility. The distance between entrances shall apply to establishments on both sides of a street. The separation distance shall be measured along the edge of the street right(s) of way. If the entrances are on different streets, the separation distance shall be measured along the edge of the rights of way of the streets connecting the two establishments. If the entrance(s) is set back from the street right of way, the distance shall be measured along the right of way from a point on the edge of the right of way that is perpendicular to the center of the entrance(s). A legally existing medical marijuana establishment at the time of adoption of this provision or an establishment that has received a City Marijuana Establishment License shall be considered an existing facility for the purpose of this limit.

4. Amend Section 10.29 to add a new section 10.29.8 to read:

10.29.8 All cultivation of marijuana including but not limited to cultivation by a Licensed Marijuana Cultivation Facility, a Registered Medical Marijuana Caregiver, or an individual growing for personal use shall be conducted in accordance with the following requirements:

10.29.8.1 All cultivation and processing of marijuana shall occur within a fully enclosed structure with solid walls and a solid roof.

10.29.8.2 The structure within which the cultivation and/or processing occur shall be designed and operated to control odors in accordance with 10.29.7.

10.29.8.3 Any structure used for the cultivation and/or processing of marijuana shall comply with the setbacks for the district within which it is located.

10.29.8.4 No freestanding accessory structure used for the cultivation and/or processing of marijuana shall be located where it can be seen from a public street unless the structure is more than one hundred (100) feet from any street right-of-way.

5. Amend the definitions in Section 17 of Marijuana Cultivation Facility – Tier 3, Marijuana Cultivation Facility – Tier 4, Medical Marijuana Cultivation Facility – Tier 1, and Medical Marijuana Cultivation Facility – Tier 2 to read:

Marijuana Cultivation Facility – Tier 3: An establishment licensed by the State of Maine for the cultivation of medical marijuana in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use marijuana in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature marijuana plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

Marijuana Cultivation Facility – Tier 4: An establishment licensed by the State of Maine for the cultivation of medical marijuana in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use marijuana in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature marijuana plants with a plant canopy of more than seven thousand (7,000) square feet.

Medical Marijuana Cultivation Facility – Tier 1: An establishment registered with the State of Maine for the cultivation of medical marijuana by a Registered

Caregiver in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing within a fully enclosed facility with walls and a roof of not more than thirty (30) mature marijuana plants, not more than sixty (60) immature marijuana plants and any number of marijuana seedlings.

Medical Marijuana Cultivation Facility – Tier 2: An establishment registered with the State of Maine for the cultivation of medical marijuana in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing within a fully enclosed facility with walls and a roof of mature marijuana plants with a plant canopy of not more than two thousand (2,000) square feet.