

To: The Planning Board  
From: The Ordinance Review Committee  
Subject: Marijuana Facilities  
Date: March 19, 2021

The Ordinance Review Committee has developed draft changes to the Land Use Ordinance dealing with how the City regulates both adult-use and medical marijuana establishments. These possible amendments are put forward with an understanding that there are legal issues about the treatment of marijuana establishments in areas where the City has used federal funds for past work. This issue specifically involves allowing marijuana establishments in the industrial park which is located in the PIC District but may involve other areas as well. This issue has been addressed by adding a footnote that applies to all marijuana establishments indicating that such facilities may not be allowed in some areas..

Here is an overview of the proposed changes to the Land Use Ordinance:

- Revisions to the separation distance requirements dealing with schools and similar institutions and clarifying which types of schools are included in this requirement.
- Revisions to the provisions dealing with how the required separation distance between retail marijuana establishments is measured and increasing the minimum separation distance between retail marijuana establishments to 500 feet.
- Revisions to the Land Use Table limiting where various retail marijuana uses can be located.
- Revisions to the Land Use Table removing Tier 3 & 4 cultivation facilities and product manufacturing establishments as permitted uses in the MUV and PHD Districts.
- Revisions to add requirements in the performance standards dealing with odors.

## Proposed Amendments to the Land Use Ordinance Relative to Medical and Adult-Use Marijuana Establishments

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

1. Amend Section 10.29.1 in Section 10.29 Marijuana Establishments 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 serves children that are less than eighteen (18) years old ~~from prekindergarten to grade 12~~; 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 or other physical feature that makes pedestrian access between the two lots impractical.

2. Amend Section 10.29.3 in Section 10.29 Marijuana Establishments to read:

10.29.3 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 ~~two-five~~ hundred (~~2500~~) 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 as 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.

3. Add Note 16. to the Notes in Section 7.6 Land Use Table to read:

**16. Marijuana establishments may be prohibited in some areas where they are otherwise allowed due to restrictions relating to the prior use of federal funding by the City. Consult with the Code Enforcement Officer to determine if this use is allowed at a particular location.**

4. Amend Section 7.6.3 Commercial Uses in the Land Use Table in Section 7.6 to revise the districts within which Marijuana Retail Stores, Medical Marijuana Registered Caregiver Retail Stores, and Medical Marijuana Registered Dispensaries are permitted as follows:

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
<b>Marijuana Retail Store<sup>13,16</sup></b>	N	N	N	N	N	N	N	P	N	N	N	<del>NP</del>	<del>NP</del>	<del>NP</del>	P	N
Marinas	N	N	P	P	N	N	N	P	N	P	N	P	N	N	P	N
Medical Facility	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N
<b>Medical Marijuana Registered Caregiver Retail Store<sup>13,16</sup></b>	N	N	N	N	N	N	N	P	N	N	N	<del>NP</del>	<del>NP</del>	<del>NP</del>	P	N
<b>Medical Marijuana Registered Dispensary<sup>13,16</sup></b>	N	N	N	N	N	N	N	P	N	N	N	<del>NP</del>	<del>NP</del>	<del>NP</del>	P	N
Meeting Space Up to 2000 Sq Ft	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N
Meeting Space over 2000 Sq Ft	N	N	N	N	N	N	P	P	P	P	N	P	P <sup>6</sup>	P	P	N

5. Amend Section 7.6.4 Industrial, Wholesale & Transportation Uses in the Land Use Table in Section 7.6 to revise the districts within which Marijuana Cultivation – Tier 3, Marijuana Cultivation – Tier 4, and Marijuana Products Manufacturing are permitted:

Industrial, Wholesale & Transportation Uses																
	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
<b>Medical Marijuana Cultivation Facility – Tier 1<sup>13,16</sup></b>	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
<b>Medical Marijuana Cultivation Facility – Tier 2<sup>13,16</sup></b>	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
<b>Marijuana Cultivation Facility – Tier 3<sup>13,16</sup></b>	N	N	N	P	N	N	N	N	P	N	N	N	<del>NP</del>	<del>NP</del>	N	N
<b>Marijuana Cultivation Facility – Tier 4<sup>13,16</sup></b>	N	N	N	P	N	N	N	N	P	N	N	N	<del>NP</del>	<del>NP</del>	N	N
<b>Marijuana Products Manufacturing Facility<sup>13,16</sup></b>	N	N	N	N	N	N	N	N	P	N	N	N	<del>NP</del>	<del>NP</del>	P <sup>14</sup>	N
<b>Marijuana Testing Facility<sup>13,16</sup></b>	N	N	N	N	N	N	N	N	P	P	N	N	P	P	N	N
Passenger Transit Facility	N	N	N	N	N	N	N	P	P	P	N	P <sup>7</sup>	P	P	P	N
Recycling Facility	N	N	N	P	N	N	N	P	P	P <sup>6</sup>	N	N	N	N	N	N
Sawmill	N	N	N	P	N	N	N	N	C	P <sup>6</sup>	N	N	N	N	N	N

6. Amend 10.29 Marijuana Establishments by adding a new subsection 10.29.7 to read:

10.29.7 All marijuana establishments shall be designed and operated in a manner that prevents marijuana plant odors from significantly altering the environmental odor outside. Odor control can include the management of odor producing operations as well as provisions for ventilation and filtration systems.

7. Amend 6.3.3 Additional Information for Applications for Planning Board Review and Site Plan Review by adding a new subsection 6.3.3.6 to read as follows:

6.3.3.6 If the application is for the establishment or expansion of a marijuana establishment, the application shall include a written odor control plan that demonstrates how the requirement of 10.29.7 will be met. The odor control plan can include the management of odor producing operations as well as provisions for ventilation and filtration systems.