

**AN ORDINANCE PERTAINING TO MARIJUANA BUSINESSES**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

Appendix A of the Code of Ordinances of the City of Lewiston, Maine, is hereby amended as follows:

**APPENDIX A**

**ZONING AND LAND USE CODE**

**ARTICLE II. DEFINITIONS**

**Sec. 2. Definitions**

*Cultivation or Cultivate:* the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

*Home occupation* means an occupation conducted in a dwelling unit or a structure accessory thereto, provided that all of the following criteria are met:

- (1) No person other than a member of the family residing on the premises shall be engaged in such occupation; and
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the total floor area of the dwelling unit and accessory structures used in the home occupation shall be used in the conduct of the home occupation; and
- (3) There shall be no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such home occupation other than one (1) sign, except as hereinafter permitted; and
- (4) No traffic shall be generated by such home occupations in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required yard; and
- (5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the home occupation is conducted in a detached one-family dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in a radio or television receiver off the premises, or causes fluctuations in line voltage off the premises; and
- (6) There shall be no stock in trade regularly maintained or any new commodity sold on the premises; and

- (7) The following are specifically excluded as home occupations: Convalescent or nursing home, tourist home, animal hospital, restaurants, doctors' offices, dentists' offices, real estate offices, registered ~~primary~~ caregivers, beauty shops and barber shops, except those that are owner-occupied, one (1) chair, appointment-only shops that meet all the other home occupation criteria.

Manufacture or Manufacturing: 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 means the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.~~ means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana Business: any business involved in the cultivation, processing, testing, sale, or manufacturing of marijuana products for adult or medical use to include: Facilities for Marijuana Cultivation, Marijuana Manufacturing, Marijuana Testing as well as Registered Dispensaries and Marijuana Stores, or Registered Caregivers licensed under this Ordinance.

Marijuana Cultivation facility: a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to Manufacturing Facilities, to Adult Use Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Marijuana Stores; cultivate, prepare and package medical marijuana at a location that is not the residence of the Registered Caregiver or Qualifying Patient

Marijuana Nursery Cultivation Facility: a facility licensed under this ordinance to cultivate adult marijuana with not more than 1,000 SF of plant canopy pursuant to MRS 28-B Section 501.

Marijuana Manufacturing Facility: a facility licensed under this ordinance to purchase marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities; or, a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section MRS 22 Section 2423-F.

Marijuana Store: a facility licensed under this ordinance where qualified individuals may purchase marijuana, immature marijuana plants and seedlings from a Cultivation Facility, purchase marijuana and marijuana products from a Manufacturing Facility and sell marijuana, marijuana products, immature marijuana plants and seedlings to consumers.

Marijuana Testing Facility: a facility licensed under this ordinance to: develop, research and test adult use marijuana, adult use marijuana products and other substances; or authorized in accordance with MRS 22 Section 2423-A, subsection 10, to analyze contaminants in and the potency and cannabinoid profile of medical marijuana samples and is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the State of Maine.

Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification.

Registered ~~primary caregiver~~ or primary caregiver means a person, a hospice provider licensed under Title 22 M.R.S.A. chapter 1681 or a nursing facility licensed under Title 22 M.R.S.A. chapter 405 that provides care for a registered patient and that has been named by the registered patient as a primary caregiver to assist with a registered patient's medical use of marijuana. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. a person or an assistant of that person that provides care for a qualifying patient and who is registered by the State of Maine pursuant to MRS 22 Section 2425-A.

Registered dispensary or dispensary means a not for profit entity registered pursuant to State Law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. an entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients as that term is defined in MRS22 Section 2422(6), as may be amended.

Registered patient means a patient who has a registry identification card issued by the State of Maine.

## ARTICLE V. ADMINISTRATION AND ENFORCEMENT

### Sec. 3. General Provisions.

- (y) Registered ~~primary caregivers.~~ Adult use and medical marijuana. Notwithstanding Article IX, District Regulations, the following provisions apply to registered ~~primary caregivers~~ as defined in Article II, Section 2 and personal adult use:
- (1) Each person 21 years of age or older who is cultivating as a caregiver or for adult use as allowed per state law other than for the personal use Registered primary caregivers engaged in the cultivation of medical marijuana for two to five registered patients shall not cultivate medical marijuana on or within any property containing more than two dwelling units.

- (2) ~~Registered primary caregivers not engaged in the cultivation of medical marijuana and registered primary caregivers engaged in the cultivation of medical marijuana for one registered patient~~ Each person 21 years of age or older who is cultivating as a caregiver for their personal medical use and/or for their personal adult use as allowed per state law are not subject to sections 5 and 6 of this Article and are permitted throughout the City.
- (3) Each person 21 years of age or older who is cultivating as a caregiver or for adult use as allowed per state law other than for the personal use ~~Registered primary caregivers engaged in the cultivation of medical marijuana for two to five registered patients~~ are permitted in accordance with Article XI and subject to licensing as per Chapter 22, Article XV of the Code of Ordinances of the City of Lewiston.

## ARTICLE XI. DISTRICT REGULATIONS

### Sec. 22. Land Use Requirements

(c) *Land Use Table* – use appearing in the table are part of this Code and set forth the use allowed in all districts. (see attached)

#### *Land Use Table Notes*

(27) ~~Only one allowed in the city.~~ Must comply with Lewiston Code of Ordinances, Chapter 22, Article XV.

Note: Additions are underlined; deletions are ~~struck out~~.

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## REASON FOR PROPOSED AMENDMENT

The proposed amendment updates the existing Zoning and Land Use Ordinance to regulate both adult use and medical marijuana. Lewiston's current regulations are limited to primary caregiver operations and were adopted in 2010. At that time, dispensaries for medical marijuana were not specifically permitted in any zoning district in the City of Lewiston, and in order to be in compliance with the new law at that time, the Zoning and Land Use Code had to be amended to allow for such use. The State has since changed the law with respect to medical marijuana and adult use marijuana, resulting in the need for definition amendments and determinations of where to allow marijuana businesses.

This amendment updates definitions in the Zoning and Land Use Code, referencing the specific state statute definitions contained in the Adult Use Marijuana Act (28-B M.R.S. §§

101-1504) and the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421-2430-B). The amendment also focuses on the zoning districts in which marijuana business may operate.

- Districts in which the city currently permits industrial and light industrial uses will allow as permitted uses marijuana cultivation, manufacturing, testing, nurseries, and registered dispensaries: Industrial, Urban Enterprise, Mill, Highway Business and Office Service.
- Marijuana stores shall be allowed in those districts that currently permit retail uses: Riverfront, Community Business, Highway Business, Centreville, Urban Enterprise and Mill.
- Downtown Residential and Neighborhood Conservation “B” districts, which currently allow retail uses, will not allow any marijuana stores, since the majority of uses in those districts are residential.

All marijuana business will be subject to local licensing requirements contained in Lewiston Code of Ordinances, Chapter 22, Article XV. Medical marijuana and adult use marijuana establishments will be subject to the same local licensing and zoning requirements.

#### **CONFORMANCE WITH THE COMPREHENSIVE PLAN**

- Page 116: “Continue to promote Lewiston and enhance the City’s competitive advantage in order to attract high-quality companies, entrepreneurs, and knowledge-based businesses to the area.”
- Page 164: “Lewiston must build on its growing momentum to actively invite new investment and create the critical mass of economic energy needed to launch the City into a new era of growth and productivity.” “Encourage infill and redevelopment within the downtown, existing service area, and designated growth area.”



Pumping stations, standpipes or other water supply uses involving facilities located on or above the ground surface and towers for municipal use	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Power transmission lines, substations, telephone exchanges, microwave towers or other public utility or communications use	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			
Municipal buildings and facilities	C	C	C	C	P	C	C	C	P	C	P	P	P	P	P	P	P	C			
Preservation of historic areas; emergency and fire protection activities; bridges and public roadways																		P			
Dams																		C			
<b>Land Use Table: All Zoning Districts 08.22.19</b>	Rural Agricultural (RA)	Low Density Residential (LDR)	Suburban Residential (SR)	Medium Density Residential (MDR)	Riverfront (RF)	Neighborhood Conservation "A" (NCA)	Neighborhood Conservation "B" (NCB)	Office Residential (OR)	Downtown Residential (DR)	Institutional Office (IO)	Community Business (CB)	Highway Business (HB)	Centreville (36) (CV)	Office Service (OS)	Industrial (I)	Urban Enterprise	Mill (M)	Resource Conservation (RC) (18)	Groundwater conservation overlay district (GC)(28)	No Name Pond Conservation Overlay District (NNP)(29)	Mobile Home Park Overlay district (MH)(30)
<b>Institutional</b>																					
Religious facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P				
Cemeteries	P	P	P	P		P	P														
Congregate care/assisted living facilities, institutions for the handicapped, nursing or convalescent homes, group care facilities				C	P		C	P	P	P	P	P	P	P		P	P				
Hospitals, medical clinics,					P		C	P	C	P	P	P	P	P		P	P				
Museums, libraries, and non-profit art galleries and theaters					P				P	P			P				P				
Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and student recreational uses, together with buildings accessory to the foregoing permitted principal buildings or structures,				C(13)	P		C(13)	C	P	P(12)(24)	P	P	P	P	P	P	P				
Civic and social organizations							C	P		C			P								
Public community meeting and civic function buildings including auditoriums					P				P	P			P				P				
<b>Residential</b>																					
Single-family detached dwellings on individual residential lots	P(8)	P	P	P		P	P(2)	P	P(11)	P(2)											
Mobile homes on individual residential lots	P(8)			P(35)																	
Two-family dwellings				P		P(37)	P	P	P(11)			P(14)									
Multifamily dwellings in accordance with the standards of Article XIII				P(34)	P(11)		P	P	P(11)	P	P		P			P	P				
Single-Family attached dwelling in accordance with the standards of Article XIII	C			P(34)	P(11)		P	P	P(11)	P											
Mixed single-family residential developments in accordance with the standards of Article XIII	C	P		P			P														
Mixed residential developments in accordance with the standards of Article XIII		P		P			P	P													
Mixed use structures					P(11)		P	P	P(11)	P	P	P	P			P	P				
Lodging houses							P		P(11)												
Home occupations	P	P	P	P		P	P	P	P		P					C					
Bed and breakfast establishments as a home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P				
In-law apartments in accordance with the standards of Article XII	P	P	P	P		P	P	P	P				P				P				
Single family cluster development	P	P	P	P																	
Family day care home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Shelters							C		C												
Dormitories												P									
<b>Natural Resource</b>																					
Agriculture	P(8)																			P	
Farm Stands	P																				
Forest management and timber harvesting activities in accordance with the standards of Article XIII	P	P	P	P		P	P	P			P	P		P	P	P		P			
Earth material removal	C													C	C						
Community gardens(20)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				

Water dependent uses, e.g. docks and marinas					P												P	C			
Non-residential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet																		C			
<b>Recreation</b>																					
Campgrounds	C																	C			
Public or private facilities for nonintensive outdoor recreation	C	C	C	C	P	C	C	C	C								P	P			
Commercial outdoor recreation and drive-in theaters					P						C	C		C			P(32)				
Fitness and recreational sports centers as listed under NAICS Code 713940					P			P			P	P	P	P	P	P	P				