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Chapter 280. Zoning

Article II. Definitions

§280-5. Definitions.

CONTAMINATION OF PROCESSES OR PRODUCTS For purposes of this chapter, this term is defined in **Chapter 149: Licensing.**

DEBILITATING MEDICAL CONDITION As defined in Maine Medical Use of Marijuana State Administrative Rules.

ENCLOSED, LOCKED FACILITY, AND ENCLOSED OUTDOOR AREA A closet, room, building, greenhouse, or other enclosed area that is equipped with locks or other security devices that permit access only by the individual authorized to grow, cultivate, process, store, and distribute marijuana in conformance with the Maine Medical Use of Marijuana Administrative Rules.

FIRE CHIEF City of Sanford Fire Department's authority having jurisdiction, including his/her designee.

HOME OCCUPATION An occupation conducted in a dwelling unit, provided that:

- A. No person other than a member of the family residing on the premises shall be engaged in such occupation; ~~and~~
- B. The use of the premises for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants; ~~and~~
- C. 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, not exceeding six (6) square feet in area, nonilluminated and mounted flat against the wall of the residence; ~~and~~
- D. No traffic shall be generated by such home occupation in greater volumes than would ~~primarily~~ 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 front yard; ~~and~~
- E. 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 single~~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 any radio or television receiver off the premises or causes fluctuations in line voltage of the premises; ~~and~~
- F. There shall be no stock-in-trade regularly maintained or any new commodity sold on the premises; ~~and~~
- G. If the home occupation is proposed to be conducted within a residence which is not owned by the resident, the resident shall have the written consent of the property owner before commencing the home occupation;

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H. The home occupation shall undergo an initial inspection by the Code Enforcement Department and the Fire Chief to verify that the home occupation meets all applicable requirements of the City's building, electrical, fire, and other health safety and technical codes, including but not limited to Chapters 90 and 128. The applicant shall request an inspection with the Code Enforcement Department and the Fire Chief a minimum of twenty-four (24) hours in advance and shall not receive a Certificate of Occupancy until after the scheduled inspection. When an inspection is conducted for a use that is sensitive to contamination of its processes or products, as identified by the operator of the home occupation, the Code Enforcement Officer and/or Fire Chief shall follow the Protection from Contamination protocols described in Chapter 149; and

I. The following are specifically excluded as home occupations: convalescent or nursing home, tourist home, animal hospital, restaurant, doctors' and dentists' offices, small engine repair, and automotive tune-up.

MAINE MEDICAL USE OF MARIJUANA ACT State statute contained in the M.R.S. Title 22, Chapter 558-C which, in combination with state administrative rules contained in 10-144 CMR Chapter 122, authorizes and provides guidance on the cultivation, production, possession, storage, distribution, and use of medical marijuana.

MAINE MEDICAL USE OF MARIJUANA STATE ADMINISTRATIVE RULES State Administrative Rules contained in 10-144 CMR Chapter 122 which, in combination with the Maine Medical Use of Marijuana Act, authorizes and provides guidance on the cultivation, production, possession, storage, distribution, and use of medical marijuana.

MARIJUANA As defined in Maine Medical Use of Marijuana State Administrative Rules.

MARIJUANA PARAPHENALIA Equipment, products, or materials defined as paraphernalia in Maine Medical Use of Marijuana State Administrative Rules.

MEDICAL MARIJUANA Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

MEDICAL MARIJUANA HOME OCCUPATION A home occupation that is conducted by a registered primary caregiver who resides in the dwelling as his/her primary residence in conformance with standards described in §280-94a.A.-F. and (1) is performed within a single-family dwelling or within an accessory building to that single-family dwelling or within a unit in a multifamily structure; (2) is for the purpose of assisting one (1) or more qualifying patients with the medical use of marijuana who do not reside in the dwelling and are not family members of the primary caregiver, and (3) complies with the Maine Medical Use of Marijuana Act and the Maine Medical Use of Marijuana State Administrative Rules.

MEDICAL MARIJUANA HOME PRODUCTION Growing, cultivating, processing, and/or storing medical marijuana by a medical marijuana qualifying patient or patients at his/her/their primary residence as an accessory use in conformance with standards described in §280-94a.A.-F., the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. This use shall be considered an accessory use to a legally permitted residential dwelling unit.

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MEDICAL MARIJUANA PRODUCTION FACILITY A facility used for cultivation, processing, storage, and/or distribution of medical marijuana at a location which is not the medical marijuana registered primary caregiver's primary residence in conformance with standards described in §280-94a.A.-G., the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. This shall be considered a commercial use.

MEDICAL MARIJUANA REGISTERED PRIMARY CAREGIVER As defined in Maine Medical Use of Marijuana State Administrative Rules.

MEDICAL MARIJUANA QUALIFYING PATIENT As defined in Maine Medical Use of Marijuana State Administrative Rules.

MEDICAL MARIJUANA WASTE OR RESIDUE Stems, stalks, roots, and other materials used in the growth, cultivation, production, and storage of medical marijuana. Medical marijuana waste or residue does not include an incidental amount of marijuana or excess prepared marijuana as defined in the Maine Use of Medical Marijuana Rules.

MEDICINAL AND BOTANICAL MANUFACTURING (NAICS #325411) Establishments primarily engaged in (1) manufacturing uncompounded medicinal chemicals and their derivatives (i.e., generally for use by pharmaceutical preparation manufacturers) and/or (2) grading, grinding, and milling uncompounded botanicals.

MISCELLANEOUS CROP FARMING (NAICS #111998), INCLUDING MEDICAL MARIJUANA CULTIVATION Establishments primarily engaged in one (1) or more of the following: (1) growing crops, except oilseeds and/or grains, vegetables and/or melons, fruits and/or tree nuts, greenhouse, nursery, and /or floriculture products, tobacco, cotton, sugarcane, hay, sugar beets, or peanuts; (2) growing a combination of crops, except a combination of oilseed and grain, and a combination of fruit and tree nuts, with no one (1) crop or family of crops accounting for one-half (1/2) of the establishment's agricultural production (i.e., value of crops for market); or (3) gathering tea or maple sap.

PREPARED MARIJUANA As defined in Maine Medical Use of Marijuana State Administrative Rules.

PRIMARY RESIDENCE A person's main residence or dwelling where he or she usually lives, typically a house or an unit in a multifamily structure. A person can only have one (1) primary residence at a given time, though he or she may share the residence with other people.

Article IV. Interpretation, Amendments and Legal Provisions

§ 280-15a. Severability

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

Article X. Establishment of Zones

Underlined text is proposed to be added to the existing ordinance. ~~Struck out text~~ is proposed to be deleted from the existing ordinance.

§280-35. Division of City~~Town~~ into zones.

R. Medical Marijuana Urban Overlay District

Article XI. Zone Requirements

§280-40. Rural Residential Zone (RR)

I. Performance standards. Uses within the Rural Residential (RR) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(7) § 280-94a. Medical marijuana standards.

§280-41. Rural Mixed-Use Zone (RMU)

I. Performance standards. Uses within the Rural Mixed-Use (RMU) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(7) § 280-94a. Medical marijuana standards.

§280-42. Single-Family Residential Zone (SFR)

I. Performance standards. Uses within the Single-Family Residential ~~Zone~~-(SFR) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(6) § 280-94a. Medical marijuana standards.

§280-44. Residential Development Zone (RD)

I. Performance standards. Uses within the Residential Development (RD) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(6) § 280-94a. Medical marijuana standards.

§280-45. Urban Zone (UZ)

J. Performance standards. Uses within the Urban (UZ) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(1) § 280-94a. Medical marijuana standards.

§280-51. Industrial Business Zone (IB)

I. Performance standards. Uses with the Industrial Business (IB) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(6) § 280-94a. Medical marijuana standards.

§280-52. Industrial Reuse Zone (IR)

July 14, 2016

These Amendments to Chapter 280 were adopted by the Sanford City Council
Order #: 16-61.10 on July 19, 2016

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I. Performance standards. Uses within the Industrial Reuse (IR) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(5) § 280-94a. Medical marijuana standards.

§ 280-53. Airport Development Zone (AD).

H. Performance standards. Uses within the Airport Development (AD) Zone shall conform to all applicable performance standards of this chapter, including but not limited to the following:

(1) § 280-94a. Medical marijuana standards.

Article XVI. Performance Standards

§280-88. Industrial performance standards.

All uses involving the manufacturing or processing of materials or products shall conform to the following standards:

A. Storage of derelict vehicles or equipment. No derelict vehicles or equipment shall be stored on the site unless they are enclosed within a secure area and screened from view from public streets and adjacent properties.

B. Vibration. Equipment and other activities shall not produce vibration measured at the lot line which is perceptible without instruments. In no case shall vibration at the lot line exceed three-thousands (0.003) of one (1) inch.

C. Odors and air quality. No offensive, harmful, or noxious odors shall be emitted that create a public nuisance or hazard beyond the lot line of the parcel, an adjoining unit, lot, building, or property, documented by multiple complaints. All facilities shall have a properly designed and maintained ventilation and air filtration system which takes into consideration the square footage and number of elements in the industrial process. Smoke, debris, dust, fluids, and other substances shall be managed in compliance with Maine Department of Environmental Protection Regulations Chapter 110 Ambient Air Quality Standards. Filters shall be checked every six (6) months and shall be replaced as needed or based on the manufacturer's recommended schedule, whichever is more recent.

D. Electromagnetic interference. No electromagnetic interference shall be permitted that does not conform to state and federal standards.

E. Lights. No lights used in the industrial process or on the site of the industrial process shall produce pollution, glare, or brightness that would create a public nuisance or hazard. All lights shall be shielded and oriented such that they shall not extend beyond the property lines. All power sources, electrical fixtures, and electrical conveyances shall be installed, connected, and maintained in conformance with the City's building, electrical, fire, and other health safety and technical codes, including but not limited to Chapters 90 and 128.

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F. Noise. Noise from an exhaust fan or other aspects of the operation shall not exceed the maximum permissible noise level established by the City in Chapter 178.

G. Carbon dioxide and/or other gases. If carbon dioxide and/or other gases are used in the industrial process, carbon dioxide alarms and/or alarms for other gases shall be provided and maintained in good operating condition.

H. Security. The facility shall be secured so as to render it inaccessible to any unauthorized persons during all hours of operation of the facility. Security measures shall be reviewed and approved to manage nuisance activity, unauthorized entry into a facility, and/or thefts. The Planning Board may require that a Knox box of an approved type listed in accordance with UL 1037 shall be installed in an accessible location to provide access in the event of an emergency.

§ 280-94a. Medical marijuana standards.

All uses involving the growing, cultivation, processing, storage, and/or distribution of medical marijuana shall conform to the following standards:

A. In single family detached dwellings, medical marijuana may be grown or cultivated outside of the home, outbuilding, and/or garage if growing is conducted in conformance with the Maine Medical Use of Marijuana State Administrative Rules. However, plants shall be entirely screened from common visual observation from a public way or area by natural objects, plantings, or a solid fence at least six (6) feet or taller in height, density, and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such that they are visible from a public way or area, either the plants shall be cut to not extend higher than the screening or the individual who is authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules shall install additional screening sufficient to conceal the plants from public view within ten (10) days of notification of the violation by the City's Code Enforcement Department.

B. In a multifamily dwelling unit, medical marijuana may be grown, cultivated, processed, and/or stored in a secure, defined, contiguous area of not more than one-quarter (1/4) of the total square footage of the dwelling unit or one-hundred (100) square feet, whichever is greater. The growing, cultivation, processing, and storage area shall be accessible only by the individual who is authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules. No medical marijuana shall be grown, cultivated, processed, and/or stored within a common area or limited common area of the property that is devoted to residential use.

C. Commercial sale of marijuana grown, cultivated, processed, and/or stored on the property, except for members of the household and family members who are qualifying patients that do not reside in the household or as otherwise allowed under the Maine Medical Use of Marijuana State Administrative Rules, and the sale of marijuana paraphernalia is prohibited. This limitation is not intended to limit production operations in one (1) unit with potential retail sales of paraphernalia in another separate unit, as long as retail sales are allowed in the zone in which the property is located and the two (2) facilities operate as separate legal entities.

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D. The primary residence, outbuilding, garage, or other structure where medical marijuana is grown, cultivated, processed, and/or stored shall meet all applicable requirements of the City's building, electrical, fire, and other health safety and technical codes, including but not limited to Chapters 90 and 128.

E. Any caregiver or operator of a production facility planning to use any chemical, including all conventional, organic, or natural pesticides and fertilizers, insecticides, rodenticides, weed-killers, fungicides, rooting hormones or other plant hormones in the growing, cultivation, production, storage, and/or distribution of medical marijuana shall do so in conformance with the Maine Medical Use of Marijuana State Administrative Rules.

F. All medical marijuana waste and/or residue from the growth, cultivation, processing, and/or storage of medical marijuana shall be disposed of in conformance with the Maine Medical Use of Marijuana State Administrative as well as Chapter 220. Waste and/or residue shall not be placed in exterior refuse containers without first being made unusable and unrecognizable through grinding and incorporating it with non-consumable, solid wastes such as paper, plastic, cardboard, food, grease, Bokashi or other compost activators, and/or soil, such that the resulting mixture is at least fifty (50) percent non-marijuana waste. Composting, fermenting, and/or incineration on-site is allowed if undertaken in accordance with state and local regulations.

G. In addition to the requirements of § 280-94a. A-F., a medical marijuana production facility shall meet the following additional standards:

(1) No medical marijuana production facilities shall be allowed within five-hundred (500) feet, as measured by the property line, of any existing public or private school, child-care provider, park, playground, and/or church. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches, which are proposed within five-hundred (500) feet of an existing medical marijuana production facility, shall be required to sign a form, which may be obtained from the Code Enforcement Department, which indicates that they are aware that an existing medical marijuana production facility is located within five-hundred (500) feet of their proposed site.

(2) The operator of the medical marijuana production facility shall obtain an annual license from the City Council to operate the facility in conformance with Chapter 149.

(3) The medical marijuana production facility shall grow, cultivate, process, store, and/or distribute plants and prepared marijuana in an fully enclosed, locked facility which is accessible only by the individual or his/her employees who are authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules.

(4) The structure where medical marijuana is grown, cultivated, and/or processed, and shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees. If the structure is six-thousand (6,000) square feet or larger it shall be required to include an internal sprinkler and/or fire suppressant system approved by the Fire Chief.

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(5) An operator of a medical marijuana production facility shall prepare an Operations Manual and Safety Plan. The Operations Manual and Safety Plan shall describe, at a minimum, policies and procedures for employee safety, product and building security, hours of operation, provision and maintenance of ventilation and odor control, storage and use of hazardous materials, including but not limited to, chemicals and gases, waste management, contamination protocols, and methods of distribution to qualifying patients. The Operations Manual and Security Plan shall be maintained at the facility and made available for inspection upon request.

(6) No medical marijuana shall be grown, cultivated, processed, and/or stored within a common area or limited common area of the property.

(7) No medical marijuana qualifying patients shall obtain medical marijuana directly from the medical marijuana production facility, except as otherwise allowed under the Maine Medical Use of Marijuana State Administrative Rules. The medical marijuana production facility may include an office space, within the same structure, for the purposes of consulting with and distributing medical marijuana to qualifying patients if offices are allowed in the zoning district and if the facility meets all public safety, public access, parking, and other requirements of City codes. This office space shall not qualify as a medical marijuana dispensary as defined in the Maine Medical Use of Marijuana State Administrative Rules.

(8) A medical marijuana production facility shall comply with the industrial performance standards in this chapter.

(9) A medical marijuana production facility shall not dispose of waste and/or residue from the growth, cultivation, processing, and storage of medical marijuana in an unsecured waste receptacle not in its possession and control.

(10) Notwithstanding anything to the contrary in 1 M.R.S. § 302, this chapter applies to any application relating to the establishment or operation of a medical marijuana production facility, whether or not such application had become a “pending proceeding” as defined in 1 M.R.S. § 302 prior to the enactment of this chapter.

Article XVII. Site Plan Review

§§ 280-100. Procedures for minor developments.

C. Submission requirements.

(5) Supplemental information. A site plan application for a medical marijuana production facility or other projects that have the potential for generating adverse odors, as determined by the Planning Director, shall indicate whether the proposed facility is designed with a closed or open ventilation system. If an open system is proposed, the application shall describe the pathway of outdoor air through the facility and include a plan and report, prepared and sealed by a mechanical engineer, or other qualified professional, registered in the State of Maine, for a properly designed, installed, and maintained ventilation and air filtration system.

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(6) Supplemental information. A site plan application for a medical marijuana production facility or other commercial or industrial facility that involves the use and/or storage of chemicals or gases shall include a floor plan showing the type and location of the storage of any chemicals or gases used in the facility and shall be subject to review and approval by the Fire Chief.

§§ 280-101. Procedures for major developments.

C. Submission requirements.

(6) Supplemental information. A site plan application for a medical marijuana production facility or other projects that have the potential for generating adverse odors, as determined by the Planning Director, shall indicate whether the proposed facility is designed with a closed or open ventilation system. If an open system is proposed, the application shall describe the pathway of outdoor air through the facility and include a plan and report, prepared and sealed by a mechanical engineer, or other qualified professional, registered in the State of Maine, for a properly designed, installed, and maintained ventilation and air filtration system.

(7) Supplemental information. A site plan application for a medical marijuana production facility or other commercial or industrial facility that involves the use and/or storage of chemicals or gases shall include a floor plan showing the type and location of the storage of any chemicals or gases used in the facility and shall be subject to review and approval by the Fire Chief.

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280 Attachment 1

Table of Land Uses

| Category of Uses | | | | Zones | | | | | | | | | |
|------------------|--------------------------------|--|--|----------|----------|----------|----------|-----------|----------|----------|----------|----------------------------|-------------------|
| II | Residential Uses | | | RR | RMU | SFR | RD | <u>UZ</u> | IB | IR | AD | <u>Stone Contract Zone</u> | <u>UZ Overlay</u> |
| | B. | Uses Accessory To Any Residential Uses | | | | | | | | | | | |
| | | 3. | <u>Medical marijuana home production</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| | | 4. | <u>Medical marijuana home occupation</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| III | Institutional Uses | | | | | | | | | | | | |
| | A. | 1. | <u>Child-care providers</u> Day-care centers or nursery schools with fewer than <u>thirteen (13)</u> children | PR | PR | | PR | P | PR | PR | P | | |
| | | 2. | <u>Child-care providers</u> Day-care centers or nursery schools with more than <u>thirteen (13)</u> children | CU | CU | | PR | P | PR | PR | P | | |
| VI | Commercial and Industrial Uses | | | | | | | | | | | | |
| | | 37. | <u>Medical marijuana production facility</u> | | <u>P</u> | | | | <u>P</u> | | <u>P</u> | <u>P</u> | <u>CU</u> |