

## **Article I. General**

### **§ 161-1. Purpose and findings.**

- A. The City Council finds that a medical marijuana production facility can be a valuable component of the City's health care system if operated by qualified and responsible operators and subject to reasonable regulations to assure effective operation.
- B. The City Council finds the importance of appropriately siting medical marijuana properties and medical marijuana operations in order to protect the public health, safety, and welfare, including and not limited to security and preventing the impacts of marijuana operations from extending beyond the premises in which the operations are taking place.
- C. The City Council finds that with the reasonable and necessary restrictions on locations and establishment of regulations, there is sufficient suitable area within the City to site medical marijuana operations.
- D. The City Council finds that licensing medical marijuana properties and medical marijuana operations on those properties shall provide for periodic review and reasonable control of their practices to ensure that public health, safety, and welfare concerns are protected.
- E. The City Council finds that it is reasonable to limit the number and location of medical marijuana properties and medical marijuana operations where they are allowed and that in doing so, there is sufficient area within the City dedicated to medical marijuana operations.

The regulation and licensing of medical marijuana properties and medical marijuana operations is not intended to conflict with 22 M.R.S.A. Chapter 558-C, Maine Medical Use of Marijuana Act, or 28-B M.R.S.A. Chapter 28-B, Adult Use Marijuana, but provides separate and additional requirements as authorized pursuant to 22 M.R.S.A. § 2429 as necessitated by the above findings for the purpose of protecting the public health, safety and welfare of persons in the city.

### **§ 161-1.2. Definitions.**

For purposes of this chapter, the following terms, which are defined in this chapter or in Chapter 280, Zoning, shall apply unless otherwise indicated:

Cultivation. See Ch. 280, Zoning Definitions.

Extraction. See Ch. 280, Zoning Definitions.

Hemp. See Ch. 280, Zoning Definitions.

Manufacturing. See Ch. 280, Zoning Definitions, "light manufacturing" and "medical marijuana manufacturing facility." Manufacturing does not include cultivation or testing.

Marijuana. See Ch. 280, Zoning Definitions.

Medical marijuana grower. A licensee that cultivates marijuana and may package marijuana at a licensed medical marijuana production facility.

Medical marijuana manufacturer. A licensee that obtains or receives cultivated medical marijuana

and manufactures or prepares medical marijuana products at a licensed medical marijuana production facility+.

Medical marijuana manufacturing facility. See Ch. 280, Zoning Definitions.

Medical marijuana production facility. See Ch. 280, Zoning Definitions.

Medical marijuana operation. A medical marijuana property, medical marijuana or hemp grower or cultivator, medical marijuana manufacturer, or medical marijuana testing facility.

Medical marijuana property. See Ch. 280, Zoning Definitions "licensed medical marijuana property."

### **§ 161-1.3. Enforcement; violations and penalties.**

- A. This chapter shall be enforced by the Code Enforcement Officer and the Police Department according to the enforcement provisions specified in Ch. 90 and Ch. 149.
- B. Any person, firm, or corporation, who violates any provision of this chapter or the terms of a license may be penalized in the same manner as specified in Ch. 90 and Ch. 149.

### **§ 161-1.4. Appeals.**

An aggrieved party may appeal a final decision made in the enforcement of this chapter to the Board of Appeals within thirty (30) days from the action of the official's final decision. The Board of Appeals shall have no authority to waive requirements of the code. An order shall not be stayed during any such appeal.

### **§ 161-1.5. 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 II. Medical Marijuana Properties**

### **§ 161-2.1. Applicability.**

This article shall apply to the eight (8) medical marijuana properties as set forth in Chapter 280, Zoning. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this article applies to any application relating to the establishment or operation of a medical marijuana property, whether or not such application had become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this article.

### **§ 161-2.2. License required.**

No person, firm, or corporation may operate a medical marijuana property without first obtaining a license for such purpose from the City Council. Licenses under this article shall not be issued unless the City Clerk receives affirmation from the Inspection Team that the applicant's property meets all applicable requirements as set forth in Chapter 149, Licensing. Any person carrying out

such activity without a license is in violation of these provisions. Failure to comply with any of these requirements shall be deemed a violation of this chapter and is adequate grounds for the denial, revocation, or suspension of a license pursuant to Chapter 149, Licensing, § 149-1.12.

**§ 161-2.3. Renewal; license term.**

Before May 31, the medical marijuana property owner shall apply for or renew his/her annual license for the following year. Within sixty (60) days of purchasing, transferring, or putting into operation a medical marijuana production property or for adding a medical marijuana operation to the facility, the owner shall apply for or amend his/her medical marijuana property license. All licenses expire on May 31.

**§ 161-2.4. Procedures and fee calculation; fees.**

License applications under this article shall be processed according to the procedures established in this article and Chapter 149. A license may be issued after the fee required has been paid through the City Clerk's Office. The required fee for a medical marijuana property license shall be calculated in the following manner:

- A. The tax assessor shall assess the number of primary buildings on the property and the total gross living area of all buildings on the property and provide that information to the City Clerk.
- B. The City Clerk shall calculate the license fee according as follows:
  - (1) The rate shall be either Tier 1 or Tier 2:
    - (a) Tier I: \$5,000 for properties with less than thirty-thousand (30,000) square feet of total gross living area.
    - (b) Tier II: \$7,500 for properties with thirty-thousand (30,000) square feet or more of total gross living area.
  - (2) The fee shall be a function of the number of buildings on the property or a minimum of one (1) times the rate plus seven-hundred-fifty dollars (\$750) times the number of licensed medical marijuana operations on the property pursuant to Chapter 161, Article III.

**§ 161-2.5. Limit on number of medical marijuana property licenses granted.**

The maximum number of medical marijuana property licenses that may be granted is eight (8).

**§ 161-2.6. Disqualifications.**

In addition to the general standards for denial, suspension, or revocation of a license and for investigation of applicants pursuant to Chapter 149, Licensing elsewhere in the Code, a license may be denied, suspended, or revoked for one (1) or more of the following reasons:

- A. Conviction of the applicant, licensee, or employee of the licensee or person representing the licensee of any Class A, Class B, or Class C crime.
- B. Conviction of the applicant, licensee, or employee of the licensee or person representing the licensee of any crime involving dishonesty, deception, misappropriation, or fraud.

**Article III. Medical Marijuana Operations**

**§ 161-3.1. Applicability.**

This article shall apply to any person, firm, corporation, or other entity engaged in a medical marijuana operation, whether operated for profit or not for profit. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this article applies to any application relating to medical marijuana operation or hemp grower, whether or not such application had become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this article.

**§ 161-3.2. License required.**

No person, firm, or corporation may operate as a marijuana grower, manufacturer, cultivator, as a testing facility, or hemp grower without first obtaining a license for each such purpose from the City Council. Such licensed operations may only occur at a license medical marijuana production facility except for hemp growing. Licenses under this article shall not be issued unless the City Clerk receives affirmation from the Inspection Team that the applicant's proposed operations meet all applicable requirements. Any person carrying out such activity without a license is in violation of these provisions. Failure to comply with any of these requirements shall be deemed a violation of this chapter and is adequate grounds for the denial, revocation, or suspension of a license pursuant to Chapter 149, Licensing, § 149-1.12.

**§ 161-3.3. Procedures and fees.**

License applications under this article shall be processed according to the procedures established in this article and Chapter 149. A license may be issued after the fee required has been paid through the City Clerk's Office. The fee for a medical marijuana operator shall be calculated in manner:

- C. Marijuana grower or cultivator: \$1,500
- D. Tier I medical marijuana manufacturing facility possessing up to forty (40) pounds of cultivated medical marijuana and medical marijuana in various stages of processing according to the activities defined in 22 M.R.S.A. § 2423-F1: \$1,500
- E. Tier II medical manufacturing facility possessing up to two-hundred (200) pounds of cultivated medical marijuana and medical marijuana in various stages of processing according to the activities defined in 22 M.R.S.A. § 2423-F2: \$2,500
- F. There shall be an additional fee of fifteen-hundred dollar (\$1,500) for medical marijuana operations engaging in extraction using inherently hazardous substances as defined in 22 M.R.S.A. § 2423-F3.
- G. Hemp grower: \$1,500 plus \$50/acre.

**§ 161-3.4. Disqualifications.**

In addition to the general standards for denial, suspension, or revocation of a license and standards for investigation of applicants pursuant to Chapter 149, Licensing, or elsewhere in the Code, a license may be denied, suspended, or revoked for one (1) or more of the following reasons:

- A. Conviction of the applicant, licensee, or employee of the licensee or person representing the licensee of any Class A, Class B, or Class C crime.

- B. Conviction of the applicant, licensee, or employee of the licensee or person representing the licensee of any crime involving dishonesty, deception, misappropriation, or fraud.

#### **§ 161-3.5. Transportation of Marijuana.**

A licensee and his/her employees may transport medical marijuana, packaged medical marijuana, and medical marijuana products between the location of the licensed medical marijuana operation and another licensed medical marijuana operation. All transportation of medical marijuana, packaged medical marijuana, and medical marijuana products shall be documented by the licensee

#### **§ 161-3.6. Record keeping.**

A licensee shall maintain records of all transactions for a minimum of one (1) year after the date of the transaction.

#### **§ 161-3.7. Preexisting medical marijuana production facilities.**

- A. No person shall have any entitlement or vested right to a license under this article. To lawfully operate a medical marijuana production operation, all businesses shall obtain a license under this chapter.
- B. A preexisting business operating under this chapter shall cease operation within forty-five (45) days after the issuance of a denial letter or revised denial letter, as applicable.

#### **§ 161-3.8. Confidentiality for medical marijuana registered caregivers.**

An individual who possesses a valid Maine State-issued medical marijuana primary caregiver registry identification card need not identify himself or herself in an application for a license for a medical marijuana operation. The cardholder shall identify him or herself and provide the relevant cards to the City Clerk for examination, but the identity of the cardholder shall not be a public record and the City Clerk shall not share the identity of the cardholder, except as necessary by law in the performance of his or her duties. At the time of application the cardholder may appoint a representative to appear before the City Council on his or her behalf. Advertisements for public hearing shall contain the location of the proposed medical marijuana operation, the owner of the real estate, and the identity of the designated representative. The City Clerk may certify to the City Council that the applicant meets the necessary legal requirements as a cardholder(s).

### **Article IV. Adult Use Establishments**

#### **§ 161-4.61. Statutory authority.**

This article is enacted pursuant to the Marijuana Legalization Act, ~~728-B~~ M.R.S.A. c. 1447; and Municipal Home Rule Authority, Maine Constitution, Art. VIII, Pt. 2; and 30-A M.R.S.A. § 3001.

#### **§ 161-4.6.2 Definitions.**

For purposes of this article, "~~adult use retail-marijuana operations establishments, including "marijuana retailstores," "retail-marijuana cultivation facilities," "retail-marijuana products manufacturing facilities," "retail-marijuana testing facilities," and "retail-marijuana social clubs," "marijuana testing facilities," and "manufacturing facilities"~~" are defined as set forth in ~~728-B~~

~~M.R.S.A. § 10222 M.R.S.A. § 2422 and 2430.~~

**§ 161-54.3. Prohibitions enumerated; intent.**

- A. Adult use~~Retail~~ marijuana establishments as defined in 28-B M.R.S.A. § 102, including retail marijuana stores, cultivation facilities, retail marijuana products manufacturing facilities, and retail-marijuana marijuana testing facilities, and retail-marijuana social clubs are expressly prohibited in this municipality.
- B. No person or organization shall develop or operate a business that engages in retail or wholesale sales of adult use a retail marijuana product, as defined by 728-B M.R.S.A. § 1022442.
- C. Nothing in this article is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

**Article V. Medical Marijuana Establishments**

**§ 161-5.1. Prohibitions enumerated.**

- A. Registered caregiver retail stores and registered dispensaries are expressly prohibited.
- B. Indoor growing of industrial hemp is prohibited.
- C. Medical marijuana establishments as defined by 22 M.R.S.A § 2422, including marijuana testing facilities and manufacturing facilities are authorized.

**§ 161-4. When effective; duration.**

This article shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

**~~§ 161-5. Enforcement; violations and penalties.~~**

- ~~A. This article shall be enforced by the municipal officers or their designee.~~
- ~~B. Violations of this article shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. §4452.~~

**~~§ 161-6. Findings.~~**

~~It has been found that inconsistent, competing, and undeveloped State laws regarding the enforcement of medical marijuana cultivation and recreational marijuana cultivation constitutes an emergency affecting the health, safety, and welfare of the citizens of the City of Sanford.~~

**~~§ 161-7. Purpose.~~**

~~To protect the health, safety, and welfare of the public, the purpose of this emergency ordinance is to allow local zoning enforcement of marijuana cultivation until such time that the State institutes appropriate and enforceable standards with regard to medical marijuana and~~

~~recreational marijuana cultivation.~~

**~~§ 161-8. Authority.~~**

~~This article is adopted pursuant to 30-A M.R.S.A § 3001 and the City's home rule powers as provided for in Article VII A of the Maine Constitution and 30-A M.R.S.A. § 2101 etseq.~~

**~~§ 161-9. Applicability.~~**

~~This article applies to the cultivation of medical marijuana by qualifying patients or caregivers and the cultivation of recreation marijuana for personal use.~~

**~~§ 161-10. Visibility requirements.~~**

~~A. Cultivation of marijuana must be entirely screened from common visual observation from the street.~~

~~B. Outdoor cultivation of marijuana must be entirely screened from common visual observation from the street by a solid fence high enough to conceal the marijuana cultivation from the street. The fence must be a minimum of six feet in height.~~

~~C. Outdoor cultivation of marijuana must be set back from the street a minimum of 25 feet.~~

**~~§ 161-11. Enforcement.~~**

~~A. It shall be the duty of the Code Enforcement Officer or his or her agent to enforce the provisions of this article. If the Code Enforcement Officer or his or her agent shall find that any provision of this article is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of buildings, structures, or additions or work being done or shall take any other action authorized by this article to ensure compliance with or to prevent violation of its provisions.~~

~~B. The Code Enforcement Officer is hereby authorized to institute or cause to be instituted, in the name of the City, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this article.~~

~~C. The Code Enforcement Officer, in his or her discretion, where a violation of this article has been brought to his or her attention, may so advise the party in violation, in writing, and may give such violators permission to continue for a period not exceeding 10 days, provided that such violators intend and do appeal to the Zoning Board of Appeals. Failure to perfect or commence such appeal within 30 days will then subject the violator to prosecution under this section.~~

**~~§ 161-12. Violations and penalties.~~**

~~Any person, firm, or corporation, being the owner of or having control or use of any building or premises, who or which violates any of the provisions of this article shall be fined not less than \$100 nor more than \$2,500 for a specific violation, and other remedies, injunctive relief, and costs as set forth in accordance with 30-A M.R.S.A. § 4452. Each day during which a violation of said article continues, 10 days after notification by the Code Enforcement Officer, shall constitute a separate~~

~~offense.~~

**~~§ 161-13. Appeals.~~**

~~The Zoning Board of Appeals shall act as the Board of Appeals in order to hear appeals of orders, decisions, or determinations made relative to application and interpretations of this article. Appeals to the Zoning Board of Appeals shall be submitted as otherwise set forth in the City Land Use Code<sup>1</sup> regarding administrative appeals, subject to the payment of any fees as may be determined by the municipal officers from time to time.~~

**~~§ 161-14. Severability.~~**

~~If any section, subsection, sentence, clause, phrase, or portion of this article 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.~~