CITY OF ROCKLAND, MAINE



270 Pleasant Street Rockland, Maine 04841

CITY CLERK'S OFFICE

November 28, 2017

YOU ARE HEREBY NOTIFIED THAT A SPECIAL MEETING OF THE ROCKLAND CITY COUNCIL WILL BE HELD IN CITY COUNCIL CHAMBERS AT ROCKLAND CITY HALL, 270 PLEASANT STREET, ROCKLAND, MAINE ON WEDNESDAY, NOVEMBER 29, 2017 AT 6:00 P.M. FOR THE FOLLOWING PURPOSE(S):

[Please Note Starting Time and Date]

Presentation – Woodard & Curran and ecomaine – Landfill Redesign Workshop – Medical Marijuana Ordinance Amendments

YOUR PUNCTUAL ATTENDANCE IS REQUESTED
PER ORDER OF THE MAYOR OF THE CITY OF ROCKLAND

STUART H. SYLVESTER CITY CLERK

CITY OF ROCKLAND, MAINE ORDINANCE AMENDMENT #26 (As Amended 11/13/17) IN CITY COUNCIL

November 13, 2017

ORDINANCE AMENDMENT Medical Marijuana Production Facilities

THE CITY OF ROCKLAND HEREBY ORDAINS THE CHAPTER 19, Zoning and Planning, SECTION 19-313 Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, BE AMENDED AS FOLLOWS:

Sec. 19-313. Medical Marijuana Production Facilities.

- 1. **Purpose:** The purpose of this article is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with state law and in a manner that prevents unintended consequences that could adversely impact the City of Rockland and its residents.
- 2. .Definitions: The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - A. Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17, "marijuana."
 - B. <u>Marijuana extraction: Marijuana extraction means the process of extracting marijuana with solvents or gases.</u>
 - C. 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.
 - D. Medical marijuana caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

- E. Medical marijuana land uses: Any of two types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.
 - 1. Medical marijuana home production: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.
 - 2. 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, approved in accordance and in conformance with Section 19-313., the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. This shall be considered a commercial use.
- F. Nuisance: The doing of or the failure to do something that allows or permits air contaminants to escape into the open air that are or tend to be detrimental to the health, comfort, safety or welfare of the public or that causes or tends to cause injury or substantial annoyance or inconvenience to persons exposed thereto or causes or tends to cause damage to property.
- 4. Review and notification process: Any proposal to establish a new or alter an existing medical marijuana production facility shall require approval of the Planning Board as a conditional use. The Planning Board and applicant shall follow the application and review process outlined in the Site Plan Review Ordinance (Chapter 16, Article II) and this section. Notification of site walks and public hearings shall include all property owners within 300 linear feet, measured in a straight line from the property boundary of the proposed dispensary or facility. Notification to property owners shall be mailed at least ten days before the scheduled site walk and public hearing. In addition to other public notification requirements, the Code Office shall notify the Rockland Police Department and the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to the public hearing on any application.
 - A. State authorization: Before submission of a conditional use application, the applicant must demonstrate their authorization to cultivate process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.
 - B. Exemptions: As an accessory use, medical marijuana home production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.
 - C. <u>Performance standards: In addition to other requirements of this section and related provisions of other chapters within the City of Rockland Ordinances, the following</u>

shall apply to any application for a new or altered medical marijuana registered dispensary or a medical marijuana production facility:

- 1. Each medical marijuana production facility shall be limited to one (1) state licensed medical marijuana caregiver.
- 2. Proximity limit. No medical marijuana production facility shall be located on a lot that is within 250 feet of another lot on which a medical marijuana production facility or medical marijuana registered dispensary is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.
- 3. Proximity location to other uses. No medical marijuana production facility shall be closer than 300 linear feet, measured in a straight line from the dispensary or facility building entrance, to the nearest point on the boundary of any property which is occupied by a school, drug free zone, city playground or church.
- 4. Security. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the City of Rockland Police Department and the Police Department finds the security measures are consistent with state requirements.
- 5. Outside appearance. No signs containing the word "marijuana," or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a medical marijuana registered dispensary or a medical marijuana production facility. Interior advertisements, displays of merchandise or signs depicting the activities of a medical marijuana production facility shall be screened to prevent public viewing from outside such facility.
- 6. Odorous air contaminants. It shall be an unlawful nuisance for any person to cause or permit the emission of offensive odors from any source so as to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of property. Any proposed facility which may emit odoriferous substances must include detailed plans to mitigate such to the Planning Board before the approval is granted.
 - i. For purposes of this section, an "offensive odor" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected at the property line by the olfactory systems of the Odor Control Committee per the Rockland City Code, Chapter 10, Article III.
- 7. 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 Regulations as well as this section. 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

- 8. <u>Unless otherwise permitted in the zone, there shall be no marijuana extraction at any approved facility.</u>
- <u>5. Medical marijuana license:</u> An annual license approved by the Rockland City Council in accordance with Section 11-222 shall be required for medical marijuana production facility.

CITY OF ROCKLAND, MAINE ORDINANCE AMENDMENT #27 (As Amended 11/13/17) IN CITY COUNCIL

November 13, 2017

ORDINANCE AMENDMENT Medical Marijuana Licensing

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 11, Licenses, Permits and Franchises, ARTICLES I & II, BE AMENDED AS FOLLOWS:

Sec. 11-106 Certifications

- 1. In all cases where certification by any one of the following City Officials is required as a condition precedent to issuance of a license, permit or franchise by the City Clerk, such certification shall be based upon actual inspection within twenty (20) days after notification by the City Clerk. In addition to the requirements for inspection and certification set forth in the Rockland Code, all of the inspections listed in paragraphs A through D of this subsection shall also be performed on premises for which an application for a new, transferred or renewal of an onpremises liquor license, medical marijuana production facility and application for a transfer of location of an existing on premises liquor license, or an application for renewal of an onpremises liquor license has been submitted to the City Council. The standards governing inspections and findings shall be as follows:
- A. Code Enforcement Officer. That the proposed operation complies with all applicable State law and local ordinances, including but not limited to the Building Code and Zoning Ordinance.
- B. Fire Inspector. That the premises comply with all applicable State law and local ordinances, including but not limited to the Fire Prevention Ordinance.
- C. Plumbing Inspector. That the premises in which the applicant proposes to conduct the trade, profession, business or privilege comply with all applicable State laws and local ordinances relative to plumbing.
- D. Police Chief. That the applicant is of good moral character, that the safety and good order of the community will not be affected adversely by the granting of the license, permit or franchise, and, in the case of a liquor license application, that those disturbances, incidents and violations set for in 28 M.R.S., Section 653(2)(C) and (D) have not been problems at the licensed premises in the past.

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Sec. 11-222. Medical Marijuana Production Facilitys

- 1. **Definitions:** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- a. Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17, "marijuana."

- b. 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.
- c. Medical marijuana caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.
- d. Medical marijuana land uses: For the purposes of licensing under this section, land uses, defined below, that covers the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.
- i. 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, approved in accordance and in conformance with Section 19-313., the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. This shall be considered a commercial use.
- 2. State authorization: Before the City Council approves a license under this section, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program is current.
- 3. License Required. No person, firm, corporation or other entity shall operate a medical marijuana production facility unless a license shall have first been obtained from the municipality, authorized by at least a majority of the Municipal Officers.
- a. Applications. For all medical marijuana production facility licenses, application shall be made in writing to the Municipal Officers and shall, as a minimum, state the name of the applicant; his/her/their residence address; the name of the business to be conducted; his/her/their business address; the nature of his/her/their business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; such certifications as required by Sec. 11-106; and any additional information as may be needed by the Municipal Officers in determining whether to issue such license
- b. Compliance With Other Ordinances. No license shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.
 - c. Fee. The fee for said license shall be set by Order of the City Council.
- d. Public Hearing. The Municipal Officers shall, prior to granting a license and after reasonable notice to the municipality and the applicants, hold a public hearing, at which the testimony of the applicant and that of any interested members of the public shall be taken.
- e. Decision to Grant. The Municipal Officers shall grant a license unless they find that issuance of the license will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws.

- f. Duration of License. A license shall be valid for one (1) year from the date of issuance.
- **4.** Planning Board conditional use approval: Before applying for a license, an applicant must obtain a conditional use approval by the Planning Board in accordance with Section 19-313.
- **5.** Licensing limitations: The following limitations apply to licenses granted under this section:

<u>Each medical marijuana production facility shall be limited to one (1) state licensed medical marijuana caregiver.</u>

a. <u>Unless otherwise permitted in the zone, there shall be no Marijuana extraction at</u> any licensed facility.

CITY OF ROCKLAND, MAINE ORDINANCE AMENDMENT #28 (As Amended 11/13/17) IN CITY COUNCIL

November 13, 2017

ORDINANCE AMENDMENT – Zoning & Planning; Words & Phrases Defined

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, SECTION 19-302 Words and Phrases Defined, BE AMENDED AS FOLLOWS:

Sec. 19-302 Words and Phrases Defined

Add:

* * * *

Alter: That which is rebuilt, reconstructed, rehabilitated, restored, removed, or demolished.

* * *

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17, "marijuana."

Marijuana extraction: Marijuana extraction means the process of extracting marijuana with solvents or gases.

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 caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical marijuana land uses: Any of land uses, defined in this section, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

Medical marijuana home production: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at

their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

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, approved in accordance and in conformance with Section 19-313., the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. This shall be considered a commercial use.

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #29 (As Amended 11/13/17)

IN CITY COUNCIL

November 13, 2017

ORDINANCE AMENDMENT Zoning Ordinance; Marijuana Production/Dispensary

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, SECTION 19-304 Zone Regulations, BE AMENDED AS FOLLOWS:

Sec. 19-304 Zone Regulations

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10. Commercial 1 Zone "C1" Regulations

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. The Planning Board shall review and grant, grant with conditions or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant. Eff: 03/08/10

- (a) Automobile Repair; Eff: 05/11/16
- (b) Car Wash; Eff: 05/11/16
- (c) Commercial outdoor recreational uses; Eff: 09/09/98
- (d) Manufacturing, at parcels fronting on New County Road;
- (e) Warehousing;
- (f) Interior boat storage and repair, at parcels fronting on New County Road;
- (g) Light industrial uses, at parcels fronting on New County Road.
- (h) Adult amusement stores. Eff: 10/01/14
- (i) Medical marijuana production facility including alcohol and CO2 extraction only.

* * * *

11. Commercial 2 Zone "C2" Regulations

(2) Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; sign, and lighting; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances.

a. Commercial outdoor recreational uses. Eff: 09/09/98

b. Automobile Repair; Eff: 05/11/16

c. Car Wash; Eff: 05/11/16

d. Medical marijuana production facility including alcohol and CO2 extraction only.

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12. Commercial 3 Zone "C3" Regulations.

(2) Conditional Uses. The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), whether or not the institution of the use requires the construction, renovation, or addition to a structure. The Planning Board shall review and grant, grant with conditions, or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant. Eff: 10/01/14

a. Medical marijuana production facility including alcohol and CO2 extraction only.

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14. Downtown Zone "DT" Regulations.

(2) Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), whether or not the institution of the use requires the construction, renovation, or addition to a structure. The Planning Board shall review and grant, grant with conditions, or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant.

- (a) Medical Marijuana Production Facilities including alcohol extraction only.
- (23) Prohibited Uses

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17. Industrial Zone "I" Regulations.

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is used. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; availability of necessary public services; and compliance with applicable requirements of all City Ordinances, including the Performance Standards of Section 19-316.

- (a) Grid-Scale Power Generation Facilities, fueled other than by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products, and having a setback of at least 200 feet from any property line shared with a lot on which a residential or mixed-use structure is located. For this purpose, "solid waste" shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended. Eff: 08/10/16
- (b) Health and Fitness Facilities that occupy no more than 40% of the total area of a structure. Eff: 09/07/16

(c) Medical Marijuana Production Facilities including marijuana extraction.

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22. Waterfront Zone Regulations

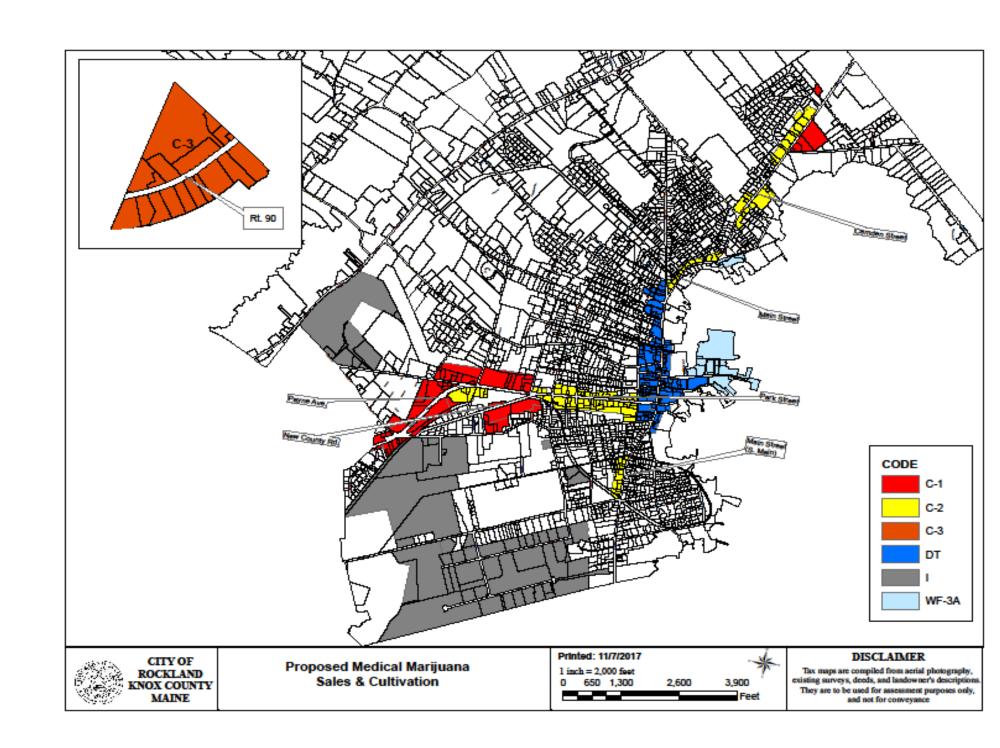
G. Waterfront Subzone "WF-3a" Regulations.

This zone will be known primarily as a commercial/industrial and maritime area.

(1) Use Regulations.

In a waterfront subzone "WF-3a":

- a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and
- b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:
 - (i) any use permitted in Residential Zone "B", except dwellings;
 - (ii) any use permitted in Commercial Zones "C1" and "DT", except dwellings;
 - (iii) any use permitted in Waterfront Subzone "WF-3";
- (iv) manufacturing, processing or storage of fish or other food, goods, supplies and equipment, except as prohibited by Section 19-304 (9) (B) hereof;
 - (v) Blacksmith shop;
 - (vi) Bottling works;
 - (vii) Carting, express or hauling;
 - (viii) Wood and lumber yards;
 - (ix) Ice manufacturing or storage;
 - (x) laundries;
 - (xi) Machine shops
 - (xii) Medical Marijuana Production Facilities including marijuana extraction.
 - (xiii) Repair shops;
 - (xiv) Sawmill or planing mill;
 - (xv) Stone yards or monumental works;
 - (xvi) Storage yards;
 - (xvii) Terminal facilities and freight houses for railroad and truck lines and shipping;
 - (xviii) Warehouses and similar storage buildings.



Medical Marijuana Ordinance in 1st reading passed 11/13/17

OA#26 substantive changes.

- Throughout: All references to medical marijuana dispensaries are deleted.
- § 2.B: Added definition of marijuana extraction.
- § 2. E.: Eliminated medical marijuana dispensaries from medical marijuana land uses
- § 4.C.: Eliminated medical marijuana dispensary limit of one (removed altogether).
- § 4.C.: Eliminated limitation of limitation of 4 medical marijuana production facilities in the City. (now unlimited)
- § 4.C.3. Proximity Limit: Changed 500 linear feet to 300. Eliminated licensed day care facility, changed town park to drug free zone.
- § 4.C.8.: Added "Unless otherwise permitted in the zone"

OA#27 substantive changes.

- Throughout: All references to medical marijuana dispensaries are deleted.
- §5 Licensing Limitations: .: Eliminated medical marijuana dispensary limit of one (removed altogether). Eliminated limitation of limitation of 4 medical marijuana production facilities in the City. (now unlimited)
- §5.b. Added "Unless otherwise permitted in the zone"

OA#28 substantive changes.

- Throughout: All references to medical marijuana dispensaries are deleted.
- Added State definition of Marijuana extraction

OA#29 substantive changes.

- Throughout: All references to medical marijuana dispensaries are deleted.
- C1, C2, C3 zones amended permitted use to "Medical marijuana production facility **including alcohol and CO2 extraction only.**"
- DT zone amended permitted use to" Medical marijuana production facility including alcohol extraction only."
- WF3a & Industrial I zones amended permitted uses to "Medical Marijuana Production Facilities including marijuana extraction." (permits all types of extraction)