

**Town of North Berwick Referendum Questions
April 6, 2019**

Referendum Question 1: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to allow Medical Marijuana Dispensaries as set forth in the proposed ordinance in Section 3.1: Definitions, as applicable; Section 5.2.1.2.A: Medical Marijuana Dispensaries; and Section 5.2.1.G: Performance Standards for Medical Marijuana Establishments?

Proposed to Read:

Village Center	Village A,B	Resrce protect	Shore'l'd Lim.Res	Shore'l'd Stream	Shore'l'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
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MEDICAL MARIJUANA	CU	NO									
Medical Marijuana Dispensary											

Definitions 3.1

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, 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 Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Registered Dispensary:

A “Medical Marijuana Registered Dispensary” as that term is defined in 22 M.R.S. § 2422(6), as may be amended, means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses Medical Marijuana or related supplies and educational materials to Medical Marijuana Qualifying Patients and the caregivers of those patients. A Medical Marijuana Registered Dispensary includes a location at which marijuana is cultivated pursuant to 22 M.R.S. § 2428, as may be amended. A Medical Marijuana Registered Dispensary is not a medical office or a professional office and is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a conditional use.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Qualifying Patient: A “Medical Marijuana Qualifying Patient” as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Registered Caregiver: A “Medical Marijuana Registered Caregiver” as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Vegetative Footprint: “Medical Marijuana Vegetative Footprint” means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

5.2.1 Medical Marijuana

A. Medical Marijuana Registered Dispensaries (Conditional Use Village Center District Zone only)

The State of Maine enacted the Maine Medical Marijuana Act, 22 M.R.S. § 2421, ET SEQ. ~~The Act contemplates the creation of a not for profit dispensaries for the provision of marijuana for medical use as well as the creation of cultivation facilities to provide marijuana to legally qualified individuals.~~ Marijuana has both legitimate medical uses and a history of widespread illegal use and trafficking. In order to preserve the safety, health and welfare of the citizens of North Berwick and others, the dispensing ~~and cultivation of marijuana~~ requires careful attention and control, including but not limited to reasonable security and oversight requirements.

a. Security and oversight requirements:

1. There shall be no outdoor cultivation of marijuana.
2. Alarm Systems – Medical Marijuana Registered Dispensaries ~~and registered cultivation facilities~~ shall have door and window intrusion alarms with audible and police notification components.
3. Exterior security lighting – Medical Marijuana Registered Dispensaries ~~and registered cultivation facilities~~ shall have spot lights with motion sensors covering the full perimeter of the facility.
4. Video surveillance – Medical Marijuana Registered Dispensaries ~~and registered cultivation facilities~~ shall have recorded video surveillance covering all plants and the entire exterior. ~~For registered cultivation facilities,~~ the recorded video surveillance

shall operate 24 hours a day, seven days a week and ~~for registered dispensaries shall, at a minimum,~~ operate at all times that the facility is not open to Medical Marijuana Qualified Patients. Records of surveillance shall be kept for a minimum of 30 days.

5. Medical Marijuana Registered Dispensaries ~~and registered cultivation facilities~~ may not continue to employ an employee who is convicted of a crime under state or federal law involving controlled substances while employed at the Medical Marijuana Registered Dispensary ~~or registered cultivation facility~~. If a principal officer or board member of a Medical Marijuana Registered Dispensary is convicted of a crime under state or federal law ~~or registered cultivation facility~~, that Medical Marijuana Registered Dispensary ~~or registered cultivation facility~~ shall immediately be considered in violation of this ordinance.
 6. A Medical Marijuana Registered Dispensary may not be open to the public between the hours of 8:00 pm and 7:00 am.
 7. Sufficient measures must be in place at all times to prevent smoke or odor from exiting a Medical Marijuana Registered Dispensary.
- b. Medical Marijuana Registered Dispensaries must be located in area defined as Village Center Overlay District as of July 1, 2012 with a minimum of ~~200~~ 1000 feet from any public or private school, public library, daycare, playground or public park and a minimum of ~~200~~ 500 feet from any church, chapel, parish house, other place of worship, ~~daycare~~ measured by straight line from the Medical Marijuana Registered Dispensary property line to the property line of the protected location.
 - c. No more than one registered ~~cultivation~~ and Medical Marijuana Registered Dispensary may exist in the Town of North Berwick and is limited to 2500 square feet.
 - d. If there is both cultivation and dispensation activities occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of building used for dispensation purposes.
 - e. Hours of operation shall be between 8:00 am to 5:00 pm, Monday through Saturday.
 - f. On-site consumption– The consumption, ingestion or inhalation of Medical Marijuana on or within the premises of a Medical Marijuana Registered Dispensary is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Medical Marijuana Registered Dispensary’s entrance.

G. Performance Standards for Medical Marijuana Establishments

- a. General standards for Medical Marijuana Establishments.

1. **Ownership:** An operator of a Medical Marijuana Establishment who does not own his

or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.

2. **Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.
3. **Security and oversight requirements:**
 - (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.
 - (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
 - (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
 - (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
 - (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
4. **Compliance with health and safety codes:** The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.
5. **Waste disposal:** All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.
6. **Setbacks from Sensitive Uses:** No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines

of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback 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 cultivation site is located within the setback of their proposed site.

7. **Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with Zoning Ordinance.
8. **Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment 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, 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.
9. **Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - A. Description of the proposed actions or technologies for each odor-producing

activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;

- B. Description of the formulas, provided by the manufacturer or supplier of the technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;
- C. Maintenance and replacement schedule for key system components, provided by the manufacturer or supplier of the technology;
- D. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
- E. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
- F. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
- G. Description of daily standard operating procedures to verify that the odor control systems are operational;
- H. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
- I. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.

10. On-site consumption of medical marijuana: The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

11. Signage and advertising: All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.

12. Inspections: Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the

premise will be reason for revocation of license to operate the Medical Marijuana Establishment.

- 13. Other laws remain applicable:** A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Referendum Question 2: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to require performance standards as set forth in the proposed ordinance in Section 5.2.1.2.B: Home Cultivation Medical and Adult Use Marijuana?

Proposed to Read:

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
MEDICAL MARIJUANA Home Cultivation – Medical and Personal Recreation	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

5.2.1 Medical Marijuana

B. Home Cultivation of Medical and/or Adult Use Marijuana (Allowed in all Zones)

a. Home cultivation standards.

- 1. Single-family detached dwellings:** In single-family detached dwellings, marijuana may be grown or cultivated inside and/or outside of the home, outbuilding, and/or garage if growing is conducted in conformance with Standards contained in this ordinance and in conformance with Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 2. Other residential dwellings:** In other residential dwellings, marijuana may be grown, cultivated, processed, and/or stored inside a dwelling unit if cultivation is conducted in conformance with Standards contained in this ordinance and in conformance with Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 3. Gases:** The use of gas products, including but not limited to carbon dioxide, sulfur dioxide, and butane, and ozone generators is prohibited

b. General standards.

- 1. Residency:** Home cultivation shall only be conducted by a resident for whom the dwelling unit is their primary residence in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 2. Ownership:** A resident who does not own his or her primary residence and who wants to cultivate marijuana shall obtain written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town, upon request.

- 3. Enclosed, locked facility:** Home cultivation, whether inside or outside of the primary residence, shall only be conducted in an enclosed, locked facility or outdoor area which is accessible only by the individual who is authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.
- 4. Limited area dedicated to cultivation:** Cultivation shall only be conducted in a contiguous area of not more than 1/4 of the total square footage of the dwelling unit or 120 square feet, whichever is less. No 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.
- 5. Screening of outdoor cultivation:** No exterior evidence of cultivation, including signs, shall be visible from a public way or area. 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 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 shall install additional screening sufficient to conceal the plants from public view within 10 days of notification of the violation by the Code Enforcement Department.
- 6. Commercial sale:** Commercial sale of marijuana grown, cultivated, processed, and/or stored on a residential property is prohibited, except to 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 Act and Rules or the Marijuana Legalization Act, as appropriate, and the sale of marijuana paraphernalia is prohibited.
- 7. Compliance with health and safety codes:** The primary residence, outbuilding, garage, or other structure where marijuana is grown, cultivated, processed, and/or stored shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes.
- 8. Chemicals and Pesticides:** Cultivation that uses any chemical in the growing, cultivation, production, storage, and/or distribution of marijuana shall do so in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate. The only pesticides allowed to be used in marijuana cultivation facilities are non-synthetic substances, unless specifically listed as "prohibited" on the National List, and pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended.

- 9. Ventilation and odor management:** Any primary residence, outbuilding, garage, or other structure used for cultivation shall have proper ventilation to prevent mold damage and to prevent odors or particles from becoming a nuisance to surrounding properties or the public.

- 10. Waste disposal:** All marijuana waste and/or residue resulting from home cultivation, including waste and/or residue from the growth, cultivation, processing, and/or storage of marijuana, shall be disposed of in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate Solid Waste. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.

Referendum Question 3: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to allow Medical Marijuana Commercial Cultivation as set forth in the proposed ordinance in Section 3.1: Definitions, as applicable; Section 5.2.1.2.C: Medical Marijuana Commercial Cultivation; and Section 5.2.1.G: Performance Standards for Medical Marijuana Establishments?

Proposed to Read:

	Village Center	Village A,B	Resrce protect	Shore'l'd Lim.Res	Shore'l'd Stream	Shore'l'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
MEDICAL MARIJUANA	CU	NO	NO	NO	NO	NO	NO	CU	CU	CU	CU
Medical Marijuana Commercial Cultivation											

Definitions 3.1

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, 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 Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Commercial Cultivation Facility:

“Medical Marijuana Commercial Cultivation Facility” means an indoor or outdoor area in excess of 120 sq. ft. used for cultivation in accordance with the Maine Medical Marijuana Act 22 M.R.S. § 2421 et seq. that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area pursuant to Maine Medical Marijuana Act 22 M.R.S. § 2421 et seq. A Medical Marijuana Commercial Cultivation facility shall not be used as, or occupied by a “collective” as that term is defined in 22 M.R.S.A. § 2422(1-A), as may be amended. A Medical Marijuana Commercial Cultivation Facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or conditional use.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Qualifying Patient: A “Medical Marijuana Qualifying Patient” as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Registered Caregiver: A “Medical Marijuana Registered Caregiver” as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Vegetative Footprint: “Medical Marijuana Vegetative Footprint” means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

5.2.1 Medical Marijuana

C. Medical Marijuana Commercial Cultivation Facility (Conditional Use in All Zones except Res I, Res II, Village A, Village B, Shoreland Zones)

a. Commercial cultivation standards.

- 1. Commercial Cultivation:** Medical marijuana may be grown or cultivated if growing is conducted in conformance with Standards contained in this ordinance. All commercial cultivation shall be conducted indoors except in the Farm and Forest district. Outdoor cultivation is only allowed in the Farm and Forest District and the outdoor cultivation area must be setback a minimum of 100 feet from the front lot line and 75 feet from the rear and side property lines.
- 2. Size Limitation:** The vegetative footprint of a Medical Marijuana Commercial Cultivation Facility shall not exceed two thousand five hundred (2500) square feet in area.
- 3. Enclosed, locked facility:** Commercial cultivation, whether inside or outside of the primary residence, shall only be conducted in an enclosed, locked facility or outdoor area which is accessible only by the individual who is authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana Act.
- 4. Screening of outdoor cultivation:** No exterior evidence of cultivation, including signs, shall be visible from a public way or area. 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 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 shall install additional screening sufficient to conceal the plants from public view within 10 days of notification of the violation by the Code Enforcement Department.

5. **Collocation:** Medical Marijuana Registered Caregivers are prohibited from collocating Medical Marijuana Commercial Cultivation Facilities in the same property/building to increase the vegetative footprint size limitations in the Farm and Forest Zone. Collocation of Registered Medical Marijuana Caregivers is allowed in other zones as a permitted or conditional use, however, each caregiver shall have a distinct and separate space to the extent allowed under 22 M.R.S. § 2430-D, and no collective of Medical Marijuana Registered Caregivers is permitted. All new structures in which collocated cultivation facilities are located shall be required to meet the Construction Standards for Commercial Use Buildings in section 5.2.21.
6. **Chemicals and Pesticides:** Cultivation that uses any chemical in the growing, cultivation, production, storage, and/or distribution of marijuana shall do so in conformance with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate. The only pesticides allowed to be used in marijuana cultivation facilities are non-synthetic substances, unless specifically listed as “prohibited” on the National List, and pesticides determined to be “minimum risk pesticides” pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.
7. **Gases:** The use of gas products, including but not limited to carbon dioxide, sulfur dioxide, and butane, and ozone generators is prohibited.

G. Performance Standards for Medical Marijuana Establishments

- a. General standards for Medical Marijuana Establishments.
 1. **Ownership:** An operator of a Medical Marijuana Establishment who does not own his or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.
 2. **Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.
 3. **Security and oversight requirements:**
 - (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.

- (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
 - (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
 - (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
 - (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
- 4. Compliance with health and safety codes:** The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.
- 5. Waste disposal:** All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.
- 6. Setbacks from Sensitive Uses:** No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback 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 cultivation site is located within the setback of their proposed site.

7. **Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with Zoning Ordinance.
8. **Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment 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, 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.
9. **Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - A. Description of the proposed actions or technologies for each odor-producing activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;
 - B. Description of the formulas, provided by the manufacturer or supplier of the technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;
 - C. Maintenance and replacement schedule for key system components, provided by the manufacturer or supplier of the technology;

- D. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
- E. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
- F. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
- G. Description of daily standard operating procedures to verify that the odor control systems are operational;
- H. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
- I. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.

10. On-site consumption of medical marijuana: The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

11. Signage and advertising: All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.

12. Inspections: Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the premise will be reason for revocation of license to operate the Medical Marijuana Establishment.

13. Other laws remain applicable: A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Referendum Question 4: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to allow Medical Marijuana Testing Facilities as set forth in the proposed ordinance in Section 3.1: Definitions, as applicable, Section 5.2.1.2.D: Medical Marijuana Testing Facilities; and Section 5.2.1.G: Performance Standards for Medical Marijuana Establishments?

Proposed to Read:

	Village Center	Village A,B	Resrce protect	Shore'l'd Lim.Res	Shore'l'd Stream	Shore'l'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
MEDICAL MARIJUANA	CU	NO	NO	NO	NO	NO	NO	NO	CU	CU	CU
Medical Marijuana Testing Facility											

3.1 Definitions

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, 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 Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Qualifying Patient: A “Medical Marijuana Qualifying Patient” as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Registered Caregiver: A “Medical Marijuana Registered Caregiver” as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Testing Facility:

"Medical Marijuana Testing Facility", as that term is defined in 22 M.R.S. § 2422(5-C), as may be amended, means a public or private laboratory that:

- A. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and
- B. 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 department.
- C. A Medical Marijuana Testing Facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or conditional use.

Medical Marijuana Vegetative Footprint: "Medical Marijuana Vegetative Footprint" means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

5.2.1 Medical Marijuana

D. Medical Marijuana Testing Facilities (Conditional Use in Commercial, Commercial II, Village Center and Industrial Zone)

a. Medical Marijuana Testing Facilities Standards

- 1. Collocation:** A Medical Marijuana Testing Facility may not be located or co-located with any other medical marijuana establishment.
- 2. Noxious gases and fumes:** Medical Marijuana Testing Facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
- 3. Setbacks from Sensitive Uses:** No setbacks from Sensitive Uses. Utilize setbacks in Zoning District.

G. Performance Standards for Medical Marijuana Establishments

a. General standards for Medical Marijuana Establishments.

- 1. Ownership:** An operator of a Medical Marijuana Establishment who does not own his or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.
- 2. Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.

3. Security and oversight requirements:

- (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.
- (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
- (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
- (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
- (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

4. Compliance with health and safety codes: The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.

5. Waste disposal: All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.

6. Setbacks from Sensitive Uses: No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback 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 cultivation site is located within the setback of their proposed site.

7. **Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with Zoning Ordinance.
8. **Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment 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, 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.
9. **Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - A. Description of the proposed actions or technologies for each odor-producing activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;
 - B. Description of the formulas, provided by the manufacturer or supplier of the

technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;

- C. Maintenance and replacement schedule for key system components, provided by the manufacturer or supplier of the technology;
- D. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
- E. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
- F. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
- G. Description of daily standard operating procedures to verify that the odor control systems are operational;
- H. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
- I. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.

10. On-site consumption of medical marijuana: The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

11. Signage and advertising: All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.

12. Inspections: Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the premise will be reason for revocation of license to operate the Medical Marijuana Establishment.

13. Other laws remain applicable: A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Referendum Question 5: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to allow Medical Marijuana Manufacturing Facilities as set forth in the proposed ordinance in Section 3.1: Definitions, as applicable; Section 5.2.1.2.E: Medical Marijuana Manufacturing Facility; and Section 5.2.1.G: Performance Standards for Medical Marijuana Establishments?

Proposed to Read:

	Village Center	Village A,B	Resrce protect	Shore'l'd Lim.Res	Shore'l'd Stream	Shore'l'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
MEDICAL MARIJUANA	CU	NO	NO	NO	NO	NO	NO	NO	CU	CU	CU
Medical Marijuana Manufacturing Facility											

Definitions 3.1

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, 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 Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Manufacturing:

“Medical Marijuana Manufacturing” as that term is defined in 22 M.R.S.A. § 2422(4-G), as may be amended, means the production, blending, infusing, compounding or other preparation of Medical Marijuana Concentrate and medical marijuana products, including, but not limited to, Medical Marijuana Extraction or preparation by means of chemical synthesis.

Medical Marijuana Manufacturing Facility:

"Medical Marijuana Manufacturing Facility" as that term is defined in 22 M.R.S. § 2422(4-H), as may be amended, means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in Medical Marijuana Extraction under section 2423-F. A Medical Marijuana Manufacturing Facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or conditional use.

Medical Marijuana Extraction:

"Medical Marijuana Extraction" as that term is defined in 22 M.R.S. § 2422(4-J), as may be amended, means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Medical Marijuana Qualifying Patient: A "Medical Marijuana Qualifying Patient" as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Registered Caregiver: A "Medical Marijuana Registered Caregiver" as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Vegetative Footprint: "Medical Marijuana Vegetative Footprint" means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

5.2.1 Medical Marijuana

E. Medical Marijuana Manufacturing Facility (Conditional Use in Commercial, Commercial II, Village Center and Industrial Zone)

a. Medical Manufacturing Facility standards.

- 1. Collocation:** A Medical Marijuana Manufacturing Facility may not be located or co-located with any other medical marijuana establishment.
- 2. Noxious gases and fumes:** Medical Marijuana Manufacturing Facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.

G. Performance Standards for Medical Marijuana Establishments

a. General standards for Medical Marijuana Establishments.

- 1. Ownership:** An operator of a Medical Marijuana Establishment who does not own his or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.

- 2. Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.
- 3. Security and oversight requirements:**
 - (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.
 - (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
 - (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
 - (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
 - (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
- 4. Compliance with health and safety codes:** The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.
- 5. Waste disposal:** All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.
- 6. Setbacks from Sensitive Uses:** No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines

of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback 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 cultivation site is located within the setback of their proposed site.

7. **Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with the Zoning Ordinance.
8. **Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment 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, 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.
9. **Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - A. Description of the proposed actions or technologies for each odor-producing

activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;

- B. Description of the formulas, provided by the manufacturer or supplier of the technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;
- C. Maintenance and replacement schedule for key system components, provided by the manufacturer or supplier of the technology;
- D. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
- E. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
- F. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
- G. Description of daily standard operating procedures to verify that the odor control systems are operational;
- H. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
- I. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.

10. On-site consumption of medical marijuana: The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

11. Signage and advertising: All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.

12. Inspections: Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the premise will be reason for revocation of license to operate the Medical Marijuana Establishment.

13. Other laws remain applicable: A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Referendum Question 6: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to allow Medical Marijuana Retail Stores as set forth in the proposed ordinance in Section 3.1: Definitions, as applicable; Section 5.2.1.2.F: Medical Marijuana Retail Store; and Section 5.2.1.G: Performance Standards for Medical Marijuana Establishments?

Proposed to Read:

Village Center	Village A,B	Resrce protect	Shore'l'd Lim.Res	Shore'l'd Stream	Shore'l'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
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MEDICAL MARIJUANA	CU	NO	CU	CU	CU						
Medical Marijuana Retail Store											

Definitions 3.1

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, 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 Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Qualifying Patient: A “Medical Marijuana Qualifying Patient” as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Registered Caregiver: A “Medical Marijuana Registered Caregiver” as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Retail Store:

A “Medical Marijuana Retail Store” is a retail establishment operated by a single Medical Marijuana Registered Caregiver to furnish or sell Medical Marijuana to Medical Marijuana Qualifying Patients, as those terms are defined in 22 M.R.S. § 2422 and may include an area for consultation with Medical Marijuana Qualifying Patients. Two or more Medical Marijuana Registered Caregivers are prohibited from forming, owning or operating a Medical Marijuana Retail Store as a single Medical Marijuana Retail Store except as permitted under 22 M.R.S. 2430-D. A Medical Marijuana Retail Store is only authorized as a principal use, and not as an accessory use, except where permitted by law, and only where expressly allowed as a permitted or conditional use.

Medical Marijuana Vegetative Footprint: “Medical Marijuana Vegetative Footprint” means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

5.2.1 Medical Marijuana**F. Medical Marijuana Retail Store (Conditional Use in Commercial, Commercial II, Village Center)****a. Medical Marijuana Retail Store Standards**

- 1. Maximum number:** No more than one Medical Marijuana Retail Store may exist in the Town of North Berwick.
- 2. Lottery:** Licenses applications for Medical Marijuana Retail Stores, are subject to the following additional restrictions pursuant to the North Berwick Medical Marijuana Licensing Ordinance:
 - (i) The number of licenses issued by the municipal officers under this section shall be limited to one (1) licenses.
 - (ii) Available licenses shall be advertised by the Town and such advertisement shall include a deadline for the submission of license applications for Medical Marijuana Retail Stores. The municipal officers shall conduct a lottery to establish the order in which applications received will be reviewed. Prior to the lottery, the Code Enforcement Officer shall review all applications for timeliness and completeness, provided, however, that the omission by the lottery applicant of a description and sketch plan of the premises for which the license is sought shall not cause the application to be deemed incomplete for purposes of the lottery (but a description and sketch plan of the premises must be provided by the applicant prior to issuance of a license under this section). Any untimely submitted or otherwise incomplete applications shall be excluded from the lottery. Once selected, the applicant will be required to follow the Conditional Use process, to determine if the proposed application is in

compliance with the Zoning Ordinance Standards. If approved by the Planning Board, the license is issued. If the Planning Board denies the applicant, another applicant is selected via the lottery process until an approval is granted.

(iii) If at any time a license issued under this section expires without timely renewal, is suspended or revoked by the municipal officers, or is terminated or abandoned by the license holder, the municipal officers shall make available the license to new applicants by soliciting new license applications in accordance with subsection 2, above. Any person who submitted an application in response to prior solicitations must submit a new timely and complete application to be included in the new lottery.

3. **Drive-through and home delivery:** Medical Marijuana Retail Stores are prohibited from having drive-through pick-up facilities, and from providing home delivery services.
4. **Secured Area Sales:** All medical marijuana, prepared medical marijuana, or medical marijuana products shall be stored in a secured area accessible only to store employees for sale to qualifying patients.
5. **Age Limitations:** The owner of a Medical Marijuana Retail Store shall include in their operations manual a process that prohibits persons under the age of 18, unless accompanied by their Parent or their Legal Guardian or have a Medical Marijuana Qualifying Patient's Card, from entering the Medical Marijuana Retail Store.
6. **Cultivation:** There shall be no cultivation of medical marijuana within a Medical Marijuana Retail Store or collocated with a Medical Marijuana Retail Store.
7. **Collocation:** A Medical Marijuana Retail Store may not be located or co-located with any other medical marijuana establishment.

G. Performance Standards for Medical Marijuana Establishments

- a. General standards for Medical Marijuana Establishments.
 1. **Ownership:** An operator of a Medical Marijuana Establishment who does not own his or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.
 2. **Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.
 3. **Security and oversight requirements:**

- (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.
- (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
- (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
- (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
- (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

4. **Compliance with health and safety codes:** The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.
5. **Waste disposal:** All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.
6. **Setbacks from Sensitive Uses:** No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback 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 cultivation site is located within the setback of their

proposed site.

7. **Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with Zoning Ordinance.
8. **Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment 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, 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.
9. **Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - A. Description of the proposed actions or technologies for each odor-producing activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;
 - B. Description of the formulas, provided by the manufacturer or supplier of the technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;
 - C. Maintenance and replacement schedule for key system components,

provided by the manufacturer or supplier of the technology;

- D. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
- E. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
- F. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
- G. Description of daily standard operating procedures to verify that the odor control systems are operational;
- H. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
- I. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.

10. On-site consumption of medical marijuana: The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.

11. Signage and advertising: All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.

12. Inspections: Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the premise will be reason for revocation of license to operate the Medical Marijuana Establishment.

13. Other laws remain applicable: A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Referendum Question 7: Shall portions of an ordinance entitled “Proposed Zoning Ordinance Amendments” be enacted to allow Medical Marijuana Counseling Offices as set forth in the proposed ordinance in Section 3.1: Definitions as applicable; and Section 5.2.1.G: Performance Standards for Medical Marijuana Establishments??

Proposed to Read:

Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc' Dist.	Commc' II	Indust. Dist.
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MEDICAL MARIJUANA	CU	NO	CU	CU	CU						
Medical Marijuana Counseling Office											

Definitions 3.1

Medical Marijuana:

“Medical Marijuana” means either edible marijuana products, harvested marijuana, marijuana product, marijuana concentrate or marijuana plants as those terms are defined in 22 M.R.S. 2422, as may be amended.

Medical Marijuana Use:

The medical use of marijuana, with the term “Medical Marijuana Use” as defined in 22 M.R.S. § 2422(5), as may be amended, 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 Medical Marijuana Qualifying Patient’s medical diagnosis or symptoms for which a medical provider has provided the Medical Marijuana Qualifying Patient a written certification.

Medical Marijuana Counseling Office:

A “Medical Marijuana Counseling Office” is an office for consultation with Medical Marijuana Qualifying Patients and operated by a single Medical Marijuana Registered Caregiver to furnish or sell Medical Marijuana to Medical Marijuana Qualifying Patients, as those terms are defined in 22 M.R.S. § 2422. No Medical Marijuana will be left on site. Two or more Medical Marijuana Registered Caregivers are prohibited from forming, owning or operating a Medical Marijuana Counseling Office, except as permitted under 22 M.R.S. 2430-D. A Medical Marijuana Counseling Office is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or conditional use.

Medical Marijuana Establishment:

A Medical Marijuana Establishment includes a Medical Marijuana Registered Dispensary, a Medical Marijuana Commercial Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Counseling Office or a Medical Marijuana Testing Facility, as may be permitted in this Ordinance.

Medical Marijuana Qualifying Patient: A “Medical Marijuana Qualifying Patient” as that term is defined in 22 M.R.S. § 2422(9), as may be amended, means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S. § 2423-B.

Medical Marijuana Registered Caregiver: A “Medical Marijuana Registered Caregiver” as that term is defined in 22 M.R.S. § 2422(11), as may be amended.

Medical Marijuana Vegetative Footprint: “Medical Marijuana Vegetative Footprint” means the square footage of the area used to cultivate marijuana plants including mature and immature marijuana plants, seedlings, and clone rooms.

5.2.1 Medical Marijuana

G. Performance Standards for Medical Marijuana Establishments

- a. General standards for Medical Marijuana Establishments.
1. **Ownership:** An operator of a Medical Marijuana Establishment who does not own his or her property and who wants to operate a Medical Marijuana Establishment shall obtain written permission from the property owner.
 2. **Enclosed, locked facility:** A Medical Marijuana Establishment shall only be conducted in an enclosed, locked facility. Not applicable to outdoor commercial cultivation.
 3. **Security and oversight requirements:**
 - (i) Alarm Systems - Medical Establishment shall have door and window intrusion alarms with audible and police notification components.
 - (ii) Exterior security lighting – Medical Marijuana Establishment shall have spot lights with motion sensors covering the full perimeter of the facility.
 - (iii) Video surveillance – Medical Marijuana Establishment shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall operate 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
 - (iv) Safe – A locking safe permanently affixed to the premise that is suitable for the storage of all prepared medical marijuana and cash stored overnight.
 - (v) Locks – Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

- 4. Compliance with health and safety codes:** The structure where a Medical Marijuana Establishment is operated shall meet all applicable requirements of the Town's building, electrical, fire, and other health safety and technical codes. The structure where a Medical Marijuana Establishment is operated shall be constructed of building materials approved by the Code Enforcement Department and Fire Chief, or their designees.
- 5. Waste disposal:** All marijuana waste and/or residue from Medical Marijuana Establishment shall be disposed of in conformance with the Maine Medical Use of Marijuana Act, as appropriate Solid Waste. Medical marijuana waste and/or residue from a Medical Marijuana Establishment shall be in a secured waste receptacle in the operator's possession and control. 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, compost activators, and/or soil, such that the resulting mixture is at least 50% nonmarijuana waste. Composting and fermenting, on-site is allowed if undertaken in accordance with State and local regulations.
- 6. Setbacks from Sensitive Uses:** No Medical Marijuana Establishment shall be allowed within 1000 feet of any existing public or private school or child-care provider or 300 feet from a park, playground, and/or church, with the distance between the properties calculated by direct measurement in a straight line between the nearest property lines of the land used for public or private school, child-care provider, park, playground and/or church to the nearest property line in which the medical marijuana production facility is located. Applicants for public or private schools, child-care providers, parks, playgrounds, and/or churches which are proposed within setback 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 cultivation site is located within the setback of their proposed site.
- 7. Annual License:** The operator of the Medical Marijuana Establishment shall obtain an annual license, in accordance with the Medical Marijuana Establishment Licensing Ordinance, from the Board of Selectmen to operate the facility in conformance with Zoning Ordinance.
- 8. Operations Manual and Safety Plan:** An operator of a Medical Marijuana Establishment 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, 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.

- 9. Odor Control Plan:** An operator of a Medical Marijuana Establishment shall prepare an Odor Control Plan specifying the engineering and administrative controls the facility will use to prevent odors from being detected offsite, unless a mechanical engineer, or other qualified professional, registered in the State of Maine, certifies the adequacy of the proposed ventilation and odor control system to prevent odors from being detected beyond the boundaries of the property.

The Odor Control Plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at a minimum:

- (i) A facility floor plan, with locations of odor-producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.
- (ii) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, and storage.
- (iii) For each odor source, specify the administrative processes and technologies the facility will use, including:
 - 1. Description of the proposed actions or technologies for each odor-producing activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;
 - 2. Description of the formulas, provided by the manufacturer or supplier of the technology, to size the proposed odor control technologies for the specific space and odor sources to be controlled within the facility;
 - 3. Maintenance and replacement schedule for key system components, provided by the manufacturer or supplier of the technology;
 - 4. Building management activities intended to isolate odor-producing activities from other areas of the buildings;
 - 5. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;
 - 6. Recordkeeping systems and forms describing what records will be maintained by the facility operator;
 - 7. Description of daily standard operating procedures to verify that the odor control systems are operational;

8. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources and consistent with accepted and available industry- specific best control technologies designed to effectively mitigate odors;
 9. The Town may use contracted staff and peer review escrow fees to review an Odor Control Plan.
- 10. On-site consumption of medical marijuana:** The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana establishment is prohibited. For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary’s entrance.
- 11. Signage and advertising:** All signage and advertising for a medical marijuana establishment shall comply with all applicable provisions of the Ordinance and 22 M.R.S. § 2429-B. All lettering for signage shall be black and white in coloring. All window signage shall comply with this section and count toward the total amount of signage allowed pursuant to section 5.2.6.b.1.
- 12. Inspections:** Nothing herein limits the ability of the Code Enforcement Officer to inspect any Medical Marijuana Establishment to ensure compliance with the standards contained within the Ordinance or any conditions applied to the land use by the Planning Board. Failure to allow the Code Enforcement Officer from inspecting the premise will be reason for revocation of license to operate the Medical Marijuana Establishment.
- 13. Other laws remain applicable:** A medical marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

Referendum Question 8: Shall an ordinance entitled, “Licensing for Medical Marijuana Establishments Ordinance” be enacted?

Proposed to Read:

**TOWN OF NORTH BERWICK
PROPOSED ORDINANCE**

Relating to Licensing for Medical Marijuana Establishments

SECTION 1 PURPOSE

The purpose of this Ordinance is to provide for and regulate the issuance of Local Licenses for Medical Marijuana Establishments as defined in the North Berwick Zoning Ordinance and by the State of Maine under the Medical Marijuana Legalization Act, 22 M.R.S.A., as may be amended.

SECTION 2 AUTHORITY

This Ordinance is adopted pursuant to the authority granted by 22 M.R.S.A. § 2421 et seq., as may be amended.

SECTION 3 DEFINITIONS

For purposes of this Ordinance, the following terms shall have the meanings: Medical Marijuana manufacturing facility, Medical Marijuana Retail Store, Medical Marijuana Testing Facility, Medical Marijuana Commercial Cultivation Facility (indoor and outdoor), and Medical Marijuana Counseling Office. These terms are collectively hereinafter referred to as “Medical Marijuana Establishments.”

SECTION 4 LICENSE FEES

The fee for licenses granted under this Ordinance shall be \$1,000.00 per year. The fee shall be doubled for late or after-the-fact applications.

SECTION 5 PROHIBITED ACTIVITIES

- A. No Medical Marijuana Establishment shall be established or operated within the Town without first receiving and then maintaining all approvals required under this Ordinance, including, but not limited to, the North Berwick Zoning Ordinance.

- B. No Medical Marijuana Establishment shall conduct any activity for which it has not received the required State License and Local License.

SECTION 6 ISSUANCE OF LICENSES FOR MEDICAL MARIJUANA ESTABLISHMENTS

The municipal officers shall have the authority to approve or disapprove applications for licenses for the operation of Medical Marijuana establishments. The annual license fee shall be as provided in Section 4 of this Ordinance.

The provisions of all applicable local ordinances, including without limitation, the North Berwick Zoning Ordinance and the statutes and rules adopted by the State of Maine shall apply to the regulation of Medical Marijuana establishments.

SECTION 7 MEDICAL MARIJUANA ESTABLISHMENTS; LICENSE REQUIRED

- A. License Required. No person shall establish or operate any Medical Marijuana establishment without first having obtained a license for the Medical Marijuana establishment from the municipal officers. Each applicant for a license shall complete and file an application on a form prescribed by the Town Clerk, together with a license fee as required in Section 4 of this Ordinance; evidence of any State approvals required to operate the Medical Marijuana establishment; a statement identifying all owners, officers, members, managers, or partners of the applicant; and a description and sketch plan of the premises for which the license is sought.
- B. Condition Precedent. Any Medical Marijuana establishment required to be licensed by the State authority created for the purpose of regulating and controlling the licensing of Medical Marijuana establishments pursuant to Title 22 of the Maine Revised Statutes, as amended, must secure a State license from that State authority prior to submitting an application for a license pursuant to this section. A copy of the applicant's state license application and supporting documentation as filed with the State authority, and any amendments thereto, shall be filed with the application required pursuant to subsection 1, above.
- C. License Issuance. The municipal officers shall license persons of good moral character to establish or operate a Medical Marijuana establishment, in accordance with the requirements set forth herein.
 - 1. In determining whether to issue or deny a license application, the municipal officers shall consider (i) whether the applicant has failed to provide sufficient evidence of its compliance with applicable zoning

ordinance provisions (including performance standards), and other applicable local and state law regulations; (ii) any part of a state inspection or local health inspection; (iii) whether the applicant has failed to provide sufficient evidence of compliance with applicable local and state laws and regulations; (iv) whether the applicant is of good moral character, considering the applicant's criminal record, if any, and all evidence presented; (v) the applicant's failure to pay an outstanding fine, penalty or tax owed to the Town; and (vi) the Town's need for additional Medical Marijuana establishments. In the review of any license application pursuant to this section, the municipal officers may require and solicit review comments concerning the approval considerations identified herein from any public officers, departments, or agencies of the Town. Misinformation or failure to comply with prerequisites of the application constitutes grounds for the denial of a license application.

2. License applications submitted pursuant to this section shall be approved or disapproved at any meeting of the municipal officers, after public notice and hearing.
 3. The municipal officers may attach to any license issued pursuant to this section such restrictions and conditions as they deem necessary, appropriate, and reasonably designed to promote the health, safety, and welfare of the public.
 4. A license issued under this section shall be effective for one year from the date of approval.
- D. License Renewal. Renewal applications from persons having obtained a license under this section shall be submitted to the Town Clerk in accordance with Section 7A. The municipal officers shall annually review all renewal applications for the purpose of determining the status of the applicant's prior conformance and likelihood of continued conformance with the requirements of this Ordinance, including the requirements of Section 3.A, above, and any restrictions or conditions of the license, and shall decide to either approve or deny the renewal application after public notice and hearing. An application for the renewal of an expired license shall be treated as a new license application if a renewal application is not submitted within thirty (30) days after the expiration or renewal date and shall be subject to the license fees and/or civil penalties set forth in Section 4 and 10.
- E. License Suspension and Revocation. The municipal officers may suspend or revoke any license granted under this section if, after notice, and hearing, the municipal officers determine that the license holder is unfit to hold a license.

The suspension or revocation of a Medical Marijuana establishment license issued by the State, the failure of a license holder to acquire and maintain all necessary local and State approvals, or the violation by a license holder of any applicable local or state laws and regulations (including without limitation the provisions of North Berwick Zoning Ordinance or applicable building or life safety code requirements) shall be prima facie evidence that the license holder is unfit to hold a license. The municipal officers shall serve written notice of a hearing on revocation on the license holder or leave said notice at the licensed premises at least three days before the time set for hearing. At the hearing, the license holder shall be given an opportunity to hear the evidence in support of the charge against the license holder and to be heard in the license holder's own defense.

- F. Assignment or Transfer. No license issued under this section may be assigned or transferred to another entity. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the premises for which they are issued and are not transferrable to another location. A license holder seeking to operate in a new location must first acquire a license for that location.
- G. Substantial Progress. Any license issued under this section shall automatically expire if the licensee does not commence operation of the Medical Marijuana establishment within 90 days from the date of license issuance; provided, however, that the Code Enforcement Officer may grant the licensee one extension of up to 180 days if the licensee demonstrates substantial progress toward commencement of operation. An application for the renewal of an expired license under this subsection shall be treated as a new license application.

SECTION 8 **ADDITIONAL LICENSING RESTRICTIONS FOR
MEDICAL MARIJUANA RETAIL STORES**

Licenses applications for Medical Marijuana retail stores, as that term is defined in the North Berwick Zoning Ordinance are subject to the following additional restrictions:

- A. The number of licenses issued by the municipal officers under this section shall be limited to one (1) licenses.
- B. Available licenses shall be advertised by the Town and such advertisement shall include a deadline for the submission of license applications for Medical Marijuana retail stores. The municipal officers shall conduct a lottery to establish the order in which applications received will be reviewed. Prior to the lottery, the Code Enforcement Officer shall review all applications for timeliness and completeness, provided, however, that the omission by the

lottery applicant of a description and sketch plan of the premises for which the license is sought shall not cause the application to be deemed incomplete for purposes of the lottery (but a description and sketch plan of the premises must be provided by the applicant prior to issuance of a license under this section). Any untimely submitted or otherwise incomplete applications shall be excluded from the lottery. Once selected, the applicant will be required to follow the Conditional Use process, to determine if the proposed application is in compliance with the Zoning Ordinance Standards. If approved by the Planning Board, the license is issued. If the Planning Board denies the applicant, another applicant is selected via the lottery process until an approval is granted.

- C. If at any time a license issued under this section expires without timely renewal, is suspended or revoked by the municipal officers, or is terminated or abandoned by the license holder, the municipal officers shall make available the license to new applicants by soliciting new license applications in accordance with subsection 2, above. Any person who submitted an application in response to prior solicitations must submit a new timely and complete application to be included in the new lottery.

SECTION 9 APPEALS

An appeal from any final decision of the municipal officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

SECTION 10 VIOLATION AND PENALTIES

The operation of any Marijuana Establishment without the required Local License or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. Violations shall be subject to penalties outlined in 30-A, MRSA, § 4452 for each day the violation continues after notification. Amount of fines shall be set by the Municipal Officers, and inure to the Town of North Berwick.

Any such fine may be in addition to any suspension or revocation imposed in accordance with this ordinance. In any court action, the Town may seek injunctive relief in addition to penalties. The Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

SECTION 11 SEVERABILITY

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

SECTION 12 OTHER LAWS

Except as otherwise specifically provided herein, this Article incorporates the requirements and procedures set forth in the Maine Medical Marijuana Legalization Act, 22 M.R.S.A. § 2421 et.seq., as may be amended. In the event of a conflict between the provisions of this Chapter and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

SECTION 13 EFFECTIVE DATE

This Ordinance shall take effect pursuant upon approval by vote of the Town meeting and subsequent amendments adopted pursuant to this ordinance.

Referendum Question 9: Shall an ordinance entitled, “An Ordinance Amending Section 2.6.A.7 of the Street Design and Construction Standard Ordinance amending the definition of a Private Road” be enacted?

Currently Reads

2.6 Street classification system.

A. All streets in the Town of North Berwick shall be classified by the Board of Selectmen into the following categories based on construction standards:

7. Private Road: a privately owned access way or right-of-way that does not meet any of the standards contained in this ordinance. These roads are nonconforming and provide frontage for more than two dwelling units and cannot be dedicated to the Town.

Proposed to Read:

2.6 Street classification system.

A. All streets in the Town of North Berwick shall be classified by the Board of Selectmen into the following categories based on construction standards:

7. Private Road: a privately owned access way or right-of-way that does not meet any of the standards contained in this ordinance **at the time of adoption (4/1/06)**. These roads are nonconforming and **at time of adoption (4/1/06)**, provide frontage for more than two dwelling units and cannot be dedicated to the Town. **Includes the following:**

Company Woods Road
Blue Heron Lane
Cary Lane
Case Road
Puffin Lane
Pine Meadow Court
Adams Bridge Road
Beech Ridge Road (Disc.Section)
Nature’s Way
Stub Marsh Road
East Road
West 1st Street
West 11th Street
West 2nd Street
Otter Cove Lane
West 4th Street
West 41st Street

West 51st Street
West 52nd Street
West 53rd Street
West 54th Street
Knollwood Court
Butler Road
Staples Drive
Hartford Lane(Disc.Section)
Loon Lane
Dove Drive

Referendum Question 10: Shall an ordinance entitled, “Food Sovereignty Ordinance” be enacted?

Proposed to Read:

NORTH BERWICK FOOD SOVEREIGNTY ORDINANCE

WHEREAS, the municipal officers and voters of the Town of North Berwick (the “Town”) support the rights of the residents of the Town to produce, process, sell, purchase, and consume local foods in order to promote self-reliance, the preservation of family farms, and local food traditions; and

WHEREAS, the Town recognizes that family farms, sustainable agricultural practices, and food processing by individuals, families, and non-corporate entities offer stability to a rural way of life by enhancing the economic, environmental, and social wealth of the community; and

WHEREAS, the Town desires to support food systems that respect human dignity and health; nourish individuals and the community; and sustain producers, processors, and the environment; and

WHEREAS, the Town desires to enact a local food self-governance ordinance pursuant to the Town’s home rule authority granted it by the Constitution of the State of Maine that facilitates the ability of individuals to acquire, produce, process, prepare, preserve, and consume the food of their own choosing for their own nourishment and sustenance; to barter, trade, and purchase food; and to save and exchange seed from the sources of their own choosing for their own physical health and well-being.

NOW, THEREFORE, BE IT ORDAINED by the voters of the Town of North Berwick, Maine, as follows:

§1. Title

This ordinance shall be known and may be cited as the “North Berwick Food Sovereignty Ordinance,” and is referred to herein as “the Ordinance.”

§2. Purpose

Pursuant to 7 M.R.S. § 283, it is the policy of this State to encourage food self-sufficiency for its citizens. The purpose of this Ordinance is to:

1. Preserve the ability of individuals and communities to save and exchange seed and to produce, process, sell, purchase, and consume locally produced foods;
2. Ensure the preservation of family farms and traditional foodways through small-scale farming, food production, and community social events;
3. Improve the health and well-being of citizens of the Town by reducing hunger and increasing food security through unimpeded access to wholesome, nutritious foods by encouraging ecological farming;

4. Promote self-reliance and personal responsibility by facilitating the ability of individuals, families and other entities to prepare, process, advertise, and sell foods directly to customers intended solely for consumption by the customers or their families;
5. Enhance rural economic development and the environmental and social wealth of rural communities; and
6. Protect access to Local Food through Direct Producer-to-Consumer Transactions, as defined in Section 4, below.

§3. Authority

This Ordinance is adopted and enacted pursuant to Article VIII, Part Second of the Constitution of the State of Maine, 30-A M.R.S. § 3001, and 7 M.R.S. § 284.

§4. Definitions

As used in this Ordinance, the following terms shall have the meanings stated below:

A. DIRECT PRODUCER-TO-CONSUMER TRANSACTION:.

A face-to-face transaction involving food or food products at the site of production of those food or food products.

B. LOCAL FOOD: Any food or food product that is grown, produced, processed, or prepared by individuals who exchange that food as part of a Direct Producer-to-Consumer Transaction.

C. PROCESSOR: An individual who processes or prepares products of the soil or animals for food or drink.

D. PRODUCER: A farmer or gardener who grows or raises any plant or animal for food or drink, whether for commercial sale or not.

§5. Statements of Law

- A. Exemption from Licensure and Inspection.** In accordance with 7 M.R.S. § 284, the Producers and Processors of Local Food intended for Direct Producer-to-Consumer Transactions in the Town as defined, by Section 4 above, governed by this ordinance, shall be exempt from state licensure and inspection, and the State of Maine shall not enforce those state food laws, rules, or regulations with respect to Direct Producer-to-Consumer Transactions.

B. **Meat and Poultry.** This Ordinance is not applicable to any meat or poultry products that are required to be produced or processed in compliance with the Maine Meat and Poultry Products Inspection Program, Title 22, Chapter 562-A, of the Maine Revised Statutes and the rules adopted thereunder.

C. **Liability Protection: No Waiver of Municipal Immunity.** Producers and Processors of Local Food may enter into private agreements with consumers to waive any liability for the consumption of Local Food. Nothing in this Ordinance shall be construed as a waiver of the Town's immunity from liability pursuant to the Maine Tort Claims Act or any other immunities or defenses otherwise available to the Town.

§6. Effective Date

This Ordinance shall be effective immediately upon its enactment.

§7. Severability Clause

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed and the balance of the Ordinance shall remain valid.