

## ARTICLE II DEFINITIONS OF TERMS USED IN THIS ORDINANCE

### 2.2 Definitions.

**Drive-Up Window, Drive-Up or Drive-Through:** A portion of a business or a structure which allows the distribution of product(s) or services through an access point to serve client(s) in motor vehicle(s)

**Drug store:** means an establishment primarily engaged in the retail dispensing of prescription drugs and may offer nonprescription drugs, medical aids and convenience goods, but shall not permit the sale or distribution of medical or retail marijuana. The definition of drug store includes a pharmacy

**Inn:** A building which contains a dwelling unit occupied by an owner or resident manager in which up to ten lodging rooms and meals are offered to the general public for compensation and in which entrance to bedrooms is made through a lobby or other common rooms. "Inn" includes such terms as "guest house" and tourist house or "Bed and Breakfast."

**Light Intensity Industry:** Includes all manufacturing, assembly, and processing activities which are conducted solely within the walls of a structure, involving no outside storage of materials or equipment; and is not considered a high hazard use under the MUBEC Maine Unified Building and Energy Code, current edition. Light intensity industrial uses include, but are not limited to: software or computer development, electronics assembly, book publishing, science and research facilities, and micro breweries.

**LOW IMPACT INDUSTRIAL:** Industrial activity involving the manufacturing, assembly, packaging, repairing, or processing of goods. Including custom activities usually involving individual or special design, or handiwork and most high technology production. Low impact industrial uses include, but are not limited to the following: aerospace electronics, bakeries, breweries, distilleries, electronics assembly, jewelry, musical instruments, photonics, pottery, packaging of foods, pharmaceuticals, printing and publishing, science and research facilities, software, sporting & recreation equipment and woodworking. LOW IMPACT INDUSTRIAL uses are compatible, due to their size and nature of impact, with residential, commercial and other LOW IMPACT INDUSTRIAL uses because of the level of traffic generated, emissions levels, lighting and odors generated. See Applicable Performance Standards of the Berwick Land Use Ordinance Article 8.35 Low Impact Industrial.

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

**Medium Intensity Industry:** Includes all manufacturing, assembly, and processing activities which are conducted solely within the walls of a structure, involving no outside storage of materials or equipment; and is not considered a high hazard use under the BOCA Basic Building Code, current edition.

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

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

**Medical Marijuana Dispensary:** A not-for-profit entity registered pursuant to Section 6 of the *State of Maine 10-144 CMR Chapter 122 Rules Governing the Maine Medical Use of Marijuana Program* that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.

**Medical Marijuana Cooperative:** Two or more medical marijuana caregivers claiming a location as a primary residence in order to conduct medical marijuana home production. Medical marijuana cooperatives are considered medical marijuana production facilities under the Berwick Land Use Ordinance.

**Medical Marijuana Home Production:** Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

**Medical Marijuana Production Facility:** A facility used for cultivating, processing, and/or storing medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence.

## 5.2 Non-Conformance

C. Non-Conforming Structures. (Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

**5. Replacement. A nonconforming structure on a non-conforming lot of record may be replaced or reconstructed provided that:**

**a. The new structure is reconstructed or replaced within the footprint of the previous structure, or that the new structure is located on the lot so that the existing non-conformity is improved upon and not increased in any way.**

**b. In order to replace or reconstruct a non-conforming structure on a non-conforming lot of record a permit must be obtained from the Code Enforcement Officer prior to any demolition or building removal and the structure must be replaced no less than 180 days from receipt of the permit.**

**c. Any manufactured housing proposed for replacement must be a HUD-code home as defined under Manufactured Housing in the Berwick land use ordinance.**

**8.3 Hotels/ and Motels and Inns.**

For traffic safety on and immediately adjoining each motel or hotel and to assure health, safety and welfare of hotel occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with.

A. The minimum lot size for any motel, or hotel or inn shall contain not less than three acres of total area. The minimum frontage shall be ten times the posted speed limit of the most traveled way serving the development but not less than 200 feet lot width at the street and throughout the first 200 feet of depth of said lot back from the street. Access driveways into the development shall be at an angle no less than 30 degrees and no more than 45 degrees to facilitate movement of traffic off the public way and onto the property. Driveways shall be separated by a minimum of 100 feet. The curb radius of the intersection of the driveway to public way shall be no less than 30 feet. Access and egress drives shall not exceed a slope of six percent for less than 60 feet onto the property.

**I. Location Restrictions**

**In Districts R1, R2 & R3 Hotels are allowed only on major highways (Route 236 or Route 9) and subdivisions approved for commercial use.**

**8.5 Mobile Home Parks.**

**H. Location Restrictions**

**In the SC/I district mobile homes are only allowed on major highways (Route 236 or Route 9), or where public water and sewer services are available within 2,000 ft. of the property line.**

**8.9 Restaurants.**

A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners.

**C. Location Restrictions**

**In the R3 district Restaurants are allowed only on major highways (Route 236 or Route 9) and subdivisions approved for commercial use.**

**8.18 Wireless Communication Facilities and Communications Towers.**

**K. Location Restrictions**

**Within the R1, LR, and SC/I Zoning Districts Wireless Communication Facilities must be installed on any existing tower, pole or structure capable of supporting such equipment.**

## 8.25 Medical Marijuana

**8.25.1. Purpose:** The purpose of this section of the ordinance is to ensure that all cultivation, processing, storage, and distribution of medical marijuana does not have an adverse impact on the health, safety, and general welfare of the residents of the Town of Berwick, ME, while still allowing for treatment and alleviation of a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

**8.25.2. Exemptions:** As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone.

### 8.25.3. Location:

Medical Marijuana Production Facilities and Dispensaries cannot be within 1,000 feet of:

- Any school – as measured from the nearest property line of the land used for the school to the nearest portion of the proposed business's building, via straight line measurement.
- Drug or Alcohol Treatment Facilities – as measured from the nearest property line of the land used for the treatment facility to the nearest portion of the proposed business's building, via straight line measurement.
- Child Care Centers – as measured from the nearest property line of the land used for child care purposes to the nearest portion of the proposed business's building, via straight line measurement.
- Other Marijuana Production Facilities – as measured from the nearest portion of the existing or pending center or store's building to the nearest portion of the proposed business's building, via straight line measurement.

### 8.25.4. Odor Control

All Marijuana Production Facilities and Dispensaries must submit an odor control plan with the conditional use application.

#### A. Odor Control Plans shall consist of the following:

1. Specific Odor-emitting activity(ies) – This section should describe the odor-emitting activities or processes (e.g., cultivation) that take place at the facility, the source(s) (e.g., budding plants) of those odors, and the location(s) from which they are emitted (e.g., flowering room)
2. Odor Mitigation Practices – For each odor-emitting source/process outlined in Section 1 of the odor control plan, specify the administrative and engineering controls the facility implements or will implement to control odors.
  - The best control technology for marijuana cultivation facilities is carbon filtration.

### 8.25.5. Security

A. All growing of medical marijuana within a commercial production facility shall occur inside and only within a completely enclosed structure. This does not apply to home growing of medical marijuana.

B. Prior to granting approval, the Planning and/or Code Enforcement Department shall receive a written statement from the Berwick Chief of Police or designee that security measures are acceptable and also consistent with State requirements.

#### 8.26 Automobile Service/Motorcycle Repair Business

##### A. Location Restrictions.

Within the R1 and R3 Zoning Districts Automobile Service/Motorcycle Repair Businesses are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

#### 8.27 Wholesale Business

##### A. Location Restrictions.

Within the R1 and R3 Zoning Districts Wholesale Businesses are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

#### 8.28 Commercial Mini-Storage

##### A. Location Restrictions.

Within the R3 Zoning Districts Commercial Mini-Storage are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

#### 8.29 Retail Business

##### A. Location Restrictions.

Within the R3 Zoning Districts Retail Businesses are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

#### 8.30 Vehicle Sales

##### A. Location Restrictions.

Within the R3 Zoning Districts Vehicle Sales are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

#### 8.31 Congregate Housing

##### A. Location Restrictions.

Within the SC/I District Congregate Housing is allowed only on major highways (Rt. 236 and Rt. 9), or where public water and sewer services are available.

**8.32 Clearing or removal of vegetation for activities other than timber harvesting**

A. In the Resource Protection District, Clearing or removal of vegetation for activities other than timber harvesting requires a permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

**8.33 Outdoor Wood Furnace**

A. Must comply with Maine Department of Environmental Protection Chapter 150.

**8.34 Fringe Financial**

A. Subject to all parking and landscaping requirements established in Article 6.4

**8.35 Low Impact Industrial**

A. All Low Impact Industrial shall conform to the following standards:

1. All manufacturing, processing, or fabrication shall occur within a building or fully enclosed structure.

2. Activities shall be limited to the processing or fabrication of materials which does not involve basic processes such as the mechanical or chemical transformation of materials or substances into new products unless such basic processes do not result in any noxious noise, odors, or vibrations that are perceptible at the property line of the parcel on which the use is located.

3. Assembly, processing, and fabrication activities not involving basic processes shall be conducted so that they will not result in objectionable noise, glare, vibration, odor, or electrical interference that will disturb or endanger adjacent properties.

4. No outside storage of raw materials, products, and wastes are permitted with Low Impact Industrial uses.

5. Truck loading and material handling areas shall be located to the side or rear of the building. No overhead doors or other service or material delivery facilities shall be allowed on the side of the building facing a public street unless the Planning Board determines that there is no practical alternative.

**8.36 Drug Store**

**A. Location Restrictions.**

Within the R3 Zoning Districts Drug Stores are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

**ARTICLE X BOARD OF APPEALS**

**10.5 Appeals to the Board of Appeals.**

**A. Making an Appeal**

1. An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer. Such appeal shall be taken within 30 days of the decision appealed from, ~~and not otherwise, except that the Board, upon a showing of good cause, may waive the 30-day requirement.~~