



TOWN OF FREEPORT, MAINE
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TO: FREEPORT TOWN COUNCIL
FROM: CECILIA SMITH, ASSISTANT TOWN PLANNER
RE: PROPOSED AMENDMENTS TO CHAPTER 21 – TOWN OF FREEPORT ZONING ORDINANCE PERTAINING TO NEW CANNABIS USES – PUBLIC HEARING
DATE: THURSDAY, MARCH 30th, 2023

Background: The Town Council gave direction to the Planning Board to consider developing land-use standards to allow certain cannabis establishments to operate in the Town of Freeport. On August 3rd, 2021, the Freeport Town Council ordered that:

“The Freeport Town Council directs the Planning Board to develop land use standards as the Planning Board deems appropriate to allow both cannabis cultivation and cannabis manufacturing and processing uses within Freeport. Said regulations to include the determination of appropriate zoning districts, the development of any recommended performance standards, and the development of any other relevant land use regulations that the Planning Board deems necessary.”

The Planning Board held several discussions on this topic in 2022 and a public hearing was held on 12/07/22. The agenda item was as follows:

“ITEM II: Proposed Amendments to Chapter 21 – Town of Freeport Zoning Ordinance Pertaining to New Cannabis Uses

This will be a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance pertaining to new cannabis uses. The following amendments are proposed:

- 1) Proposed amendments to Section 104. Definitions, including adding the new uses of: Cannabis Establishment, Cannabis Cultivation Facility, Cannabis Manufacturing and Processing Facility, and Medical Cannabis Small-Scale Caregiver Operation.
- 2) The new uses of Cannabis Cultivation Facility and Cannabis Manufacturing and Processing Facility are proposed to be added as permitted uses, subject to Site Plan Review, to the following Sections (zoning districts) of the Freeport Zoning Ordinance: Section 406. Medium Density Districts (MD-A & MD-B), Section 409. Commercial District I (C-I), Section 411. Commercial District III (C-III), Section 412. Commercial District IV (C-IV), Section 415. Village Commercial District III

- (VC-III), Section 421. Industrial District I (I-I), and Section 422. Industrial District II (I-II).
- 3) Other amendments pertaining to the new cannabis uses are proposed to the following sections: Section 201. General Restrictions and Section 503. Home Occupations. These amendments would clarify that “cannabis home cultivation” is permitted in every zoning district and that “Medical Cannabis Small-Scale Caregiver Operation” can operate as a home occupation per the standards of Section 503. Home Occupations (as amended).
 - 4) A new Section 535. Cannabis Establishments containing performance standards for Cannabis Establishments is proposed.

ITEM III: PUBLIC HEARING – Proposed Amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance

This will be a public hearing to discuss proposed amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance. Changes include general language clarification, amending the thresholds for the Site Plan Review process and the designated reviewing authority, and amendments pertaining to Site Plan Review for Cannabis Establishments (related to Item II of this agenda.)”

General Background: Per Town Council directive, the two *new* types of cannabis establishment that the Town of Freeport would allow are *cannabis cultivation* facilities and *cannabis manufacturing and processing* facilities. These facilities would be able to produce cannabis for both the adult recreational and medical cannabis markets in Maine. Per State law, these types of cannabis establishment cannot operate in Freeport unless the Town chooses to allow them (that is, opts into allowing each of these different types of establishments). Please note that the State already allows some types of medical cannabis caregiver operations, such as Medical Cannabis Small-Scale Operations, to operate in any zoning district in Freeport. Therefore, the recommended zoning ordinance amendments also incorporate definitions and standards for medical caregivers for clarification purposes. Please also note that, per Town Council directive, no cannabis retail stores will be allowed.

The recommended zoning ordinance amendments reflect the Planning Board’s careful consideration regarding appropriate zoning districts and performance standards for these new types of establishments. In developing standards, the Planning Board concluded that, from a land use perspective, the existing Manufacturing and Processing uses as defined in Freeport’s Zoning Ordinance are comparable uses to cannabis cultivation and cannabis manufacturing and processing uses. Therefore, zoning districts that currently allow manufacturing and processing uses were found to be compatible districts for the new cannabis uses. The Planning Board also thought it would be appropriate that the same restrictions applied to existing manufacturing and processing uses be applied to cannabis uses and that such restrictions should be supplemented with additional performance standards specific to cannabis establishments (see new proposed Section 535. Cannabis Establishments).

Proposed Uses: The new commercial cannabis uses are:

- Cannabis Cultivation facilities - for both adult use (recreational) and medical use cannabis in certain zoning districts;
- Cannabis Manufacturing and Processing facilities - for the production of both adult use (recreational) and medical cannabis products in certain zoning districts;
- Medical Cannabis Small-Scale Caregiver Operation - as home occupations in any zoning district.

Proposed Zoning Districts: The Planning Board recommended allowing Cannabis Manufacturing and Processing and Cannabis Cultivation Facility uses in zoning districts that already allow Manufacturing and Processing uses. (As a reference, please see the attached map of Manufacturing and Processing Use Zones). The districts are listed below.

- Commercial District 1 (C-1)
- Commercial District 3 (C-3)
- Commercial District 4 (C-4)
- Industrial District 1 (I-1)
- Industrial District 2 (I-2)
- Medium Density District A (MDA)
- Medium Density District B (MDB)
- Village Commercial District 3 (VC-3)

Please note that, in addition to the proposed performance standards set forward in the recommended zoning amendments (see Section 353. Cannabis Establishments of the proposed zoning ordinance amendment), cannabis establishments would be subject to the performance standards of the underlying zoning district where these establishments would be located. Also note that, while certain type of personal home cultivation of cannabis plants by private citizens for personal consumption are exempt from State licensing requirements, Cannabis Cultivation facilities and Cannabis Manufacturing facilities are subject to strict State licensing standards governing many aspects of the production and cultivation process (such as distancing from schools, lighting, video surveillance, etc). In addition, under the recommended zoning amendments, cannabis establishments in Freeport would also need to undergo Freeport's Site Plan review (under Section 602 of the Freeport Zoning Ordinance), secure a State license, and secure a local license from the Town of Freeport (as written in the proposed amendments).

Please also note that the proposed zoning ordinance amendments were drafted under the expectation that the Town of Freeport would also develop and adopt a local licensing ordinance. Thus, before the consideration of the recommended zoning ordinance amendments become effective, the Town Council will need to develop a licensing ordinance specific to cannabis establishments, where additional criteria and conditions may be imposed on these types of establishments.

Process: The Planning Board held nine (9) discussions on this topic throughout the year in 2022 (01/05/22, 03/02/22, 05/04/22, 06/01/22, 07/06/22, 8/03/22, 10/5/22, and 11/2/22), and a Public Hearing was held on 12/07/22. Notification was completed per the Rules of Order of the Freeport Planning Board (approximately

410 letters were mailed). In addition, Planning Board legal ads for the public hearing were published in the Times Record on 11/22/22 and 11/29/22. The text for the legal ad was as follows:

Public Notice

TOWN OF FREEPORT PLANNING BOARD– PUBLIC HEARINGS

The Freeport Planning Board will hold public hearings on Wednesday, December 7th, 2022 at 6:00 p.m. in the Freeport Town Hall Council Chambers at 30 Main Street (Zoom option available) to discuss proposed amendments to the following sections of Chapter 21- Town of Freeport Zoning Ordinance:

ITEM II: Proposed Amendments to Chapter 21 – Town of Freeport Zoning Ordinance Pertaining to New Cannabis Uses

This will be a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance pertaining to new cannabis uses. The following amendments are proposed:

1) Proposed amendments to Section 104. Definitions, including adding the new uses of: Cannabis Establishment, Cannabis Cultivation Facility, Cannabis Manufacturing and Processing Facility, and Medical Cannabis Small-Scale Caregiver Operation.

2) The new uses of Cannabis Cultivation Facility and Cannabis Manufacturing and Processing Facility are proposed to be added as permitted uses, subject to Site Plan Review, to the following Sections (zoning districts) of the Freeport Zoning Ordinance: Section 406. Medium Density Districts (MD-A & MD-B), Section 409. Commercial District I (C-I), Section 411. Commercial District III (C-III), Section 412. Commercial District IV (C-IV), Section 415. Village Commercial District III (VC-III), Section 421. Industrial District I (I-I), and Section 422. Industrial District II (I-II).

3) Other amendments pertaining to the new cannabis uses are proposed to the following sections: Section 201. General Restrictions and Section 503. Home Occupations. These amendments would clarify that "cannabis home cultivation" is permitted in every zoning district and that "Medical Cannabis Small-Scale Caregiver Operation" can operate as a home occupation per the standards of Section 503. Home Occupations (as amended).

4) A new Section 535. Cannabis Establishments containing performance standards for Cannabis Establishments is proposed.

ITEM III: Proposed Amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance

This will be a public hearing to discuss proposed amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance. Changes include general language clarification, amending the thresholds for the Site Plan Review process and the designated reviewing authority, and amendments pertaining to Site Plan Review for Cannabis Establishments.

The public is welcome to attend and may choose to attend in person, or on Zoom. Information on how to participate (including information on how to join on Zoom) can be found on the meeting agenda posted on the meeting calendar of the Town's website at www.freeportmaine.com. Meeting materials will be available for viewing on the Town's website or by contacting the Planning Office at the Freeport Town Hall at (207) 865-4743 option 5.

Recommendations from the Planning Board: The Planning Board made the following recommendations:

MOVED AND SECONDED: Be it ordered that the Freeport Planning Board recommends to the Freeport Town Council the proposed amendments regarding cannabis uses including the change to Section 503, Subsection 5 and all other proposals in the Freeport Zoning Ordinance: Section 104. Definitions, Section 406. Medium Density Districts (MD-A & MD-B), Section 409. Commercial District I (C-I), Section 411. Commercial District III (C-III), Section 412. Commercial District IV (C-IV), Section 415. Village Commercial District III (VC-III), Section 421. Industrial District I (I-I), and Section 422. Industrial District II (I-II), Section 201. General Restrictions, Section 503. Home Occupations, and Section 535. Cannabis Establishments. The Board finds that the proposed language has been drafted to protect the health and safety of Freeport residents and is in general harmony with the Freeport Comprehensive Plan's Vision for the Future "that Freeport's economy would remain strong and stable by providing a diversity of commercial enterprises that provides a wide variety of jobs consistent with the community's character," with the Comprehensive Plan's directive on the Economy, that "Freeport should not rely solely on the retail sector," and that Freeport's economy is strengthened by innovation and technology that allows Freeport and Maine to stay competitive in the global economy that adds value to locally produced products and strengthens the light manufacturing sector. (Rouda & Ball) VOTE: (5 Ayes) (1 Nay-Arsenault) (1 Excused-Burwell) (0 Nays)

MOVED AND SECONDED: Be it ordered that the Freeport Planning Board recommend to the Freeport Town Council the proposed amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance, including amendments for general language clarification, amending the thresholds for the Site Plan Review process and the designated reviewing authority, and amendments pertaining to Site Plan Review for Cannabis Establishments. Be it further ordered that the Freeport Planning Board recommends that the Freeport Town Council waits to consider the recommended proposed amendments to Section 602.C.2.c regarding cannabis establishments until such time that the Town Council considers the recommended amendments regarding cannabis establishments. The Planning Board finds that the recommended amendments are in general harmony with the Freeport Comprehensive Plan's Vision "That Freeport's economy would remain strong and stable..." through clearer regulations that allow for flexibility in site development and a more efficient review process for relatively minor site plan amendments and smaller projects. We would like to draw attention to Section G, Project Review Board, Staff Review Board and Town Planner and its legality to the State's Statutes. (Ball & Arsenault) VOTE: 4 Ayes) (2 Nays-Jortner & Arsenault) (1 Excused-Burwell) (0 Nays)

Proposed Zoning Districts

- Commercial 1 C1
- Commercial 3 C3
- Commercial 4 C4
- Industrial 1 I1
- Industrial 2 I2
- Medium Density A MDA
- Medium Density B MDB
- Village Commercial 3 VC3

