

# Order

## of the Bar Harbor Town Council

### for the November 8, 2022 Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

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#### WARRANT ARTICLE

**Article XX CITIZENS' PETITION LAND USE ORDINANCE AMENDMENT - Marijuana Stores Ordinance — Shall an ordinance dated August 16, 2022 and entitled “An amendment to allow Retail Marijuana Stores in the Downtown Village I, Downtown Village II, Bar Harbor Gateway, Downtown Village Transitional, and Shoreland Development III districts,” be enacted?**

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#### SUMMARY

This amendment will allow marijuana retail stores in four existing zoning districts: § 125-17 Bar Harbor Gateway, § 125-21 Downtown Village I, § 125-21.1 Downtown Village II, § 125-21.2 Downtown Village Transitional, and also create a new zoning district, § 125-49.2 Shoreland General Development III, in which certain marijuana retail stores are allowed.

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#### EXPLANATION

This amendment will create and define a new use - marijuana retail stores – which will be allowed in four existing zoning districts: § 125-17 Bar Harbor Gateway, § 125-21 Downtown Village I, § 125-21.1 Downtown Village II, § 125-21.2 Downtown Village Transitional, and also create a new zoning district, § 125-49.2 Shoreland General Development III, in which certain marijuana retail stores are allowed. The boundaries of that new district are not defined.

The marijuana retail stores will sell marijuana, marijuana products, immature plants and seedling to adults.

In § 125-21 Downtown Village I District, marijuana retail stores will require a building permit or a change of use permit issued by the Code Enforcement Officer.

In § 125-17 Bar Harbor Gateway, § 125-21.1 Downtown Village II, and § 125-21.2 Downtown Village Transitional, marijuana retail stores will require site plan review by the Planning Board.

The proposed amendment indicates it is adding a new § 125-21.1 C. (3). However, because § 125-21.1 C. (3) already exists, it appears the reference was intended to be to § 125-21.1 C. (4). Therefore, in the ordinance language below, the reference has been changed to § 125-21.1 C. (4).

The amendment will also create a new district - § 125-49.2 Shoreland General Development III - in between the existing § 125-49.1 Shoreland General Development III District and § 125-49.2 Shoreland General Development IV District.

In this new district, § 125-49.2 Shoreland General Development III, marijuana retail stores would apparently be allowed provided the structure is no greater than 5,000 square feet in floor area and will require site plan review by the Planning Board. However, because the proposed petition language did not follow the Charter's ordinance amendment format of striking old language (~~stricken~~) and underlining new language (underlined) and because the boundaries of that new district are not defined, the intent is somewhat unclear and may result in this section being unenforceable as drafted.

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The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please note: old language is ~~stricken~~ and new language is underlined.]

## Chapter 125

### Article III Land Use Activities and Standards

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#### § 125-17 Bar Harbor Gateway.

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#### D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; employee living quarters; ferry terminal; farmers' market; hotel; marina; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking

garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; marijuana retail store; road construction; services; shared accommodations (SA-2 and SA-3); take-out restaurant; wind turbines, and wireless communication facilities.

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### **§ 125-21 Downtown Village I.**

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#### **C. Allowed uses:**

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; marijuana retail store; public information, municipal and government uses; multifamily dwelling I; restaurants and bars; theaters; galleries; services; shared accommodations (SA-1); professional offices; all bed-and-breakfasts; food-processing establishment; theaters; single- and two-family dwelling units; bonus dwelling unit; laundry and dry cleaning; artist studio, eleemosynary institution, place of worship; farmers market; home occupation.

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### **§ 125-21.1 Downtown Village II.**

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#### **C. Allowed uses.**

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(3) Uses allowed by conditional use permit: public utility.

(4) Uses allowed by site plan review: marijuana retail store.

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### **§ 125-21.2 Downtown Village Transitional.**

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#### **C. Allowed uses.**

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(2) Uses allowed by site plan review: multifamily dwelling II; parking lot; all other types of child-care facilities; medical clinics; automobile sales lot; automobile repair garage; retirement community; marijuana retail store.

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**§125.49.1 Shoreland General Development III.**

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**§ 125-49.2 Shoreland General Development IV.**

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**§ 125-49.2 Shoreland General Development III.**

D. Uses allowed by site plan.

The following uses shall be permitted by site plan review in any part of this district: motels accessory to cabins and cottages (with such motel providing for no more than 10 sleeping accommodations for transient uses), marina, retail (provided the structure is no greater than 5,000 square feet in floor area), marijuana retail store (provided the structure is no greater than 5,000 square feet in floor area), gallery, museum, recreational boating facility, permanent pier, dock, wharf, breakwater or other use projecting into the water, and road construction.

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## **Article XII**

### **Construction and definitions**

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#### 125-109 Definitions

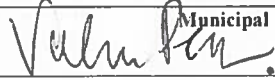

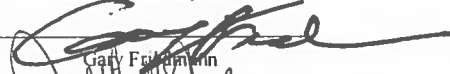
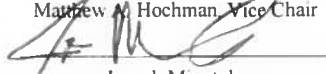
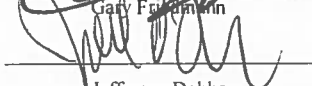
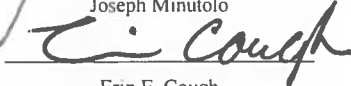

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Marijuana Retail Store: A retail establishment licensed pursuant to 28-B M.R.S. §101 et seq. to sell marijuana, marijuana products, immature marijuana plants, and seedling to adult use customers.

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Given under our hands and seal at Bar Harbor this 16<sup>th</sup> day of AUGUST, 2022:

**Municipal Officers of the Town of Bar Harbor**

 _____ Valerie Peacock, Chair	 _____ Matthew M. Hochman, Vice Chair
 _____ Gary Friedman	 _____ Joseph Minutolo
 _____ Jefferson Dobbs	 _____ Erin E. Cough
 _____ Jill Goldthwait	