

ADDITIONS AND MODIFICATIONS TO THE EXISTING CODE

Code section number to be amended | 16.3.2.17

Proposed amendment language |

| 16.3.2.17 Shoreland Overlay Zone OZ-SL

| (B) Permitted and special exception land use.

| (10) Commercial - 1 Zone (C1)

| (b) Special exception uses.

|

| (24) Marijuana Retail Store

|

Provide a narrative of why the proposed amendment would be beneficial for the Town in the space provided below. Include benefits and hardship this would address.

| Attached.

|

|

|

|

|

|

Amendment to the Land Use Zoning Map

Provide a narrative of the proposed change including benefits for the Town, compatibility to the abutting land uses and any supporting information. Also, attach a sketch of the proposed map change with this application.

|

|

|

|

|

|

|

Attachment 1- Narrative to change existing code.

Narrative:

It was clear from the month's long discussion by both the Planning Board and the City Council that they intended Marijuana Retail Stores to be allowed as a special exception use in the C-1 zone, including areas covered by the Shoreland Overlay Zone. Repeatedly, in discussing their intent regarding appropriate locations for Marijuana Retail Stores, Council Members referenced outlets located within the Shoreland Overlay Zone within the C-1 Zone. Further, there is no legitimate policy rationale for allowing Marijuana Retail Stores in the C-1 Zone but excluding them from the Shoreland Overlay Zone. Retail uses generally are permitted within the Shoreland Overlay Zone within the C-1 Zone. Marijuana Retail Stores, similar to general retail, do not have any discharge or generate any pollutant that would warrant excluding them from the Shoreland Overlay Zone. The wastewater, sewage, and refuse generated by a marijuana retail store—employee and customer use of the restrooms, daily cleaning and sanitizing, and shipping and packaging materials and waste generated by employee daily activities (e.g., throwing away a snack wrapper)—is identical to that of a general retail store. In fact, a Marijuana Retail Store sitting in the Shoreland Overlay Zone within the C-1 zone would most likely be occupying a space that was formerly general retail with access to town water and sewage and regular disposal by a waste disposal company. However, in what appears to have been an error, the final ordinance that was voted on by the Kittery City Council on August 7, 2021, failed to include Marijuana Retail Stores as a special exception use in the Shoreland Overlay Zone within the C-1 Zone. As a result, people who had been following the Council and Planning Board discussion for months and making decisions, including decisions to enter into leases, in reliance on the clear intent of the Council are being foreclosed from even participating in the lottery for the three retail store licenses. An amendment is necessary to effectuate the intent of the Planning Board and City Council.