
SALEM GENERAL CODE OF ORDINANCES

Sec. 24-30. Retail marijuana establishments; limits.

The number of marijuana retailers within the city shall be limited to no more than 20 percent of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L.A. ch. 138, § 15.

A marijuana retailer is defined as any entity licensed to purchase and deliver marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

(Ord. of 2-22-2018 , § I)

ZONING ORDINANCE – SPECIFIC SECTIONS

3.1 PRINCIPAL USES

Except as provided by law or in this Ordinance in each district, no building or structure shall be constructed, used or occupied, nor shall land be used or occupied, except for the purposes permitted as set forth in the accompanying Table of Principal and Accessory Use Regulations.

3.1.1 By Right. A use listed in the Table of Principal and Accessory Use Regulations is permitted as of right in any district under which it is denoted by the letter "Y" subject to such restrictions as may be specified elsewhere in this Ordinance.

3.1.2 Special Permit: Zoning Board of Appeals. A use designated in the Table of Principal and Accessory Use Regulations by the letters "BA" may be permitted as a special permit only if the Zoning Board of Appeals so determines and grants a special permit therefore as provided in Section 9.4 of this Ordinance subject to such restrictions as are set forth elsewhere in this Ordinance, and such restrictions as said Board may establish.

3.1.3 Special Permit: Planning Board. A use designated in the Table of Principal and Accessory Use Regulations by the letters "PB" may be permitted as a special permit only if the Planning Board so determines and grants a special permit therefore as provided in Section 9.4 of this Ordinance subject to such restrictions as are set forth elsewhere in this Ordinance, and such restrictions as said Board may establish.

3.1.4 Not Allowed. A use listed in the Table of Principal and Accessory Use Regulations which is denoted by the letter "N" is not allowed without an amendment to these Zoning Ordinances enacted by the Salem City Council.

(Ord. No. 9-9-10, § I)

TABLE OF PRINCIPAL AND ACCESSORY USE REGULATIONS											
PRINCIPAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
A. RESIDENTIAL USES											
Dwelling, Single-family	Y	Y	Y	Y	Y	N	N	Y	N	N	-
Dwelling, Two-family	N	N	Y	Y	Y	N	N	Y	N	N	-
Dwelling, Multifamily	N	N	N	Y	Y	N	N	Y	N	N	-

Cluster development	PB	PB	PB	PB	N	N	N	N	N	N	-
Dwelling unit above first floor retail, personal service, or office use	N	N	N	N	Y	N	N	Y	N	N	-
Dwelling unit in historic carriage house	BA	BA	BA	BA	BA	N	N	N	N	N	-
Multifamily development	N	N	N	BA	N	N	N	N	N	N	-
Nursing or convalescent home	N	N	N	BA	BA	BA	N	N	N	PB	-
Planned unit development***	N	N	N	PB	PB	PB	PB	PB	PB	Y	-
Rooming, boarding or lodging house	N	N	BA	N	BA	BA	N	N	N	N	-
B. EXEMPT AND INSTITUTIONAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Child care facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
Commercial Farm, Exempt ¹ :	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Essential services	BA	BA	BA	BA	BA	BA	BA	BA	BA	PB	-
Hospital	BA	BA	N	N	N	N	N	N	N	N	-
Medical Clinic	N	N	N	N	BA	BA	BA	BA	BA	BA	-
Municipal facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
Municipal or Religious Building Reuse**	PB	PB	PB	PB	N	N	N	N	N	N	N
Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
C. COMMERCIAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Adult day care	BA	BA	BA	BA	BA	BA	BA	BA	BA	PB	-
Animal clinic or hospital; kennel	N	N	N	N	BA	BA	BA	N	BA	PB	-
Arts and crafts studios and workshops	N	N	N	BA	BA	BA	BA	Y	Y	Y	-
Bank, financial agency	N	N	N	N	Y	Y	Y	Y	Y	N	-
Bed and breakfast	N	N	BA	N	BA	BA	N	N	N	N	-
Business or professional offices	N	N	N	N	Y	Y	Y	Y	Y	Y	-

Club or lodge, private	N	N	N	N	N	N	N	Y	N	N	-
Commercial recreation, indoor	N	N	N	N	N	BA	BA	Y	BA	N	-
Commercial recreation, outdoor	N	N	N	N	N	BA	BA	N	BA	N	-
Drive-through facilities; fast-food	N	N	N	N	N	PB	PB	PB	PB	N	-
Drive-through facilities; other	N	N	N	N	N	PB	PB	PB	PB	N	-
Educational use, nonexempt	N	N	N	N	N	N	N	Y	N	N	-
Funeral home	N	N	BA	BA	BA	BA	N	N	N	N	-
General service establishment	N	N	N	N	Y	Y	Y	N	Y	N	-
Golf course	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	-
Historic buildings open to the public	N	N	Y	Y	Y	Y	Y	Y	Y	Y	-
Hotel, motel, or inn	N	N	N	BA	N	Y	BA	Y	N	N	-
Marijuana Testing Facility	N	N	N	N	N	BA	N	BA	BA	BA	-
Marijuana Product Manufacturer	N	N	N	N	N	N	N	N	BA	BA	-
Marijuana Retailer	N	N	N	N	N	BA	BA	BA	BA	BA	-
Marina; waterfront boat yard or yacht club	BA	BA	BA	BA	BA	BA	BA	BA	BA	N	-
Medical and dental offices	N	N	N	N	Y	Y	Y	Y	Y	Y	-
Motor vehicle general and body repair	N	N	N	N	N	BA	BA	N	BA	N	-
Motor vehicle light service	N	N	N	N	BA	Y	Y	N	Y	N	-
Motor vehicle, trailer and boat sales, service and rental	N	N	N	N	N	BA	Y	N	Y	N	-
Museum	N	N	Y	Y	Y	Y	Y	Y	Y	Y	-
Nonprofit outdoor recreational facilities	BA	BA	N	N	BA	N	N	N	N	N	-
Personal service establishment	N	N	N	N	Y	BA	Y	Y	N	N	-
Plumbing, carpentry and sheet metal shop	N	N	N	N	N	N	Y	N	Y	N	-
Restaurant, with service of alcoholic beverages	N	N	N	N	N	Y	N	Y	N	N	-
Restaurant; drive-in or fast-food	N	N	N	N	Y	Y	Y	Y	Y	N	-
Restaurant; no service of alcoholic beverages	N	N	N	N	Y	Y	Y	Y	Y	N	-
Retail department store located within a shopping plaza	N	N	N	N	N	Y	N	N	N	N	-

Retail Marijuana Cultivator	N	N	N	N	N	BA	BA	BA	BA	BA	-
Retail store, except department store, not elsewhere set forth	N	N	N	N	Y	Y	Y	Y	Y	N	-
Retail-wholesale supply establishments, provided that the wholesale operation does not exceed 50% of the gross floor area	N	N	N	BA	BA	N	N	Y	N	N	-
Sale and storage of building supplies	N	N	N	N	N	N	Y	N	Y	N	-
Solar Energy System, Medium-Scale Ground Mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Solar Energy System, Large-Scale Ground Mounted	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
Supermarket	N	N	N	N	N	Y	N	N	N	N	-
Wind energy facility, commercial scale	N	N	N	PB	N	N	N	N	PB	PB	-
Wind energy facility, residential scale	PB	PB	PB	PB	PB	PB	PB	N	PB	PB	-
Wireless Communications Facility	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	-
D. INDUSTRIAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Assembly or packaging	N	N	N	N	N	N	N	N	Y	PB	-
Brewery, distillery, or winery with tasting room	N	N	N	N	BA	BA	BA	BA	Y	BA	-
Computer hardware development	N	N	N	N	N	N	N	BA	Y	Y	-
Contractor's yard; landscaping business	N	N	N	N	N	N	N	N	BA	PB	-
Earth removal	N	N	N	N	N	N	N	N	N	N	-
Food and beverage manufacturing, bottling or processing facility	N	N	N	N	N	N	N	N	Y	Y	-
Junkyard or automobile graveyard	N	N	N	N	N	N	N	N	BA	N	-
Light manufacturing	N	N	N	N	N	N	N	N	BA	PB	-
Livery facility, yard, or terminal	N	N	N	N	N	N	N	N	BA	N	-
Manufacturing	N	N	N	N	N	N	N	N	BA	PB	-
Mini-storage warehouse facility	N	N	N	N	N	BA	BA	N	Y	PB	-
Publishing and printing	N	N	N	N	N	Y	Y	Y	Y	N	-

Research, laboratories, and development facilities	N	N	N	N	N	Y	N	N	BA	Y	-
Transportation terminal	N	N	N	N	N	N	N	N	BA	N	-
Wholesale, warehouse, or distribution facility	N	N	N	N	N	Y	Y	BA	Y	PB	-
E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Affordable Accessory Dwelling Unit attached to a Principal Dwelling (as defined in Sec. 3.2.8) or within a Principal Dwelling	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building, as defined in Sec. 3.2.8	Y	Y	Y	Y	N	N	N	N	N	N	Y
Adult day care	BA	BA	BA	BA	N	N	N	N	N	N	-
Family day care, large	BA	BA	BA	BA	N	N	N	N	N	N	-
Family day care, small	Y	Y	Y	Y	N	N	N	N	N	N	-
Garden, home/yard	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Home occupation	BA	BA	BA	BA	N	N	N	N	N	N	-
Non-Owner Occupied Short-Term Rentals	N	N	BA	BA	BA	BA	BA	BA	N	N	BA
Private garages and other accessory structures	Y	Y	Y	Y	Y	N	N	N	BA	N	-
Rooming and boarding not more than 2 persons	N	N	Y	Y	N	N	N	N	N	N	-
Solar Energy System, Canopy Mounted	Y	Y	Y	Y	Y	N	N	N	PB	N	-
Solar Energy System, Roof-Mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Solar Energy System, Small-Scale Ground Mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Solar Energy System, Medium-Scale Ground Mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Urban Agriculture (Subject to Section 3.2.7):	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<p>* Dwelling unit above first floor retail, personal service, or office use shall only apply to parcels with a lot area less than 20,000 s.f.</p> <p>** Subject to Section 6.11.</p> <p>*** Planned unit development is not permitted in the Bridge Street Neck Overlay District.</p> <p>¹ A Commercial Farm, Exempt operated on a City-owned Lot or by the City on a Lot that is not owned by the City is exempt from the requirement that such use be conducted on parcels of 5 acres or more</p>											

or parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000.00 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, so long as the products produced thereon are to be used for the benefit of the community and any revenue from any sales of those products are used for the sole purpose of sustaining the community farm.

(Ord. No. 9-9-10, §§ II, III; Ord. of 9-11-14 , § II; Ord. of 12-11-14(3) ; Ord. of 1-11-18(2) , § 3; Ord. of 2-22-18(3) ; Ord. of 6-28-18 , § 1; Ord. of 11-15-18 ; Ord. of 9-12-19(1) , § 1; Ord. of 5-27-21 (1), § 1; Ord. of 5-12-22(1) , § II; Ord. of 5-26-22(1) , § 3; Ord. of 5-26-22(2) , § 1)

6.10 MARIJUANA ESTABLISHMENTS.

M.G.L.A. c. 94G, authorizes a system of state licensing for businesses engaging in the cultivation, testing, processing and manufacturing, and retail sales of marijuana, collectively referred to as "marijuana establishments." In addition to the discretion the city has to issue a letter of support or non-opposition to a potential licensee to the state licensing authority, M.G.L.A. c. 94G § 3, allows cities to adopt ordinances that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with the law.

6.10.1 Purpose. The purpose of this ordinance is to allow state-licensed retail marijuana establishments to exist in the City of Salem in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Ordinance, M.G.L.A. c. 40A, and M.G.L.A. c. 94G.

6.10.2 Applicability; Effective Date. This section applies to all marijuana establishments including marijuana cultivators, testing facilities, product manufacturers, processors, and retailers licensed by the Commonwealth pursuant to M.G.L.A. c. 94G.

Under M.G.L.A. c. 94G, experienced marijuana establishment operators including medical marijuana treatment centers as defined in Chapter 369 of the Acts of 2012 with a registration in good standing, or a reorganized marijuana business established by a vote of at least 2/3 of the Board of Directors of any entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the Department of Public Health are also subject to this Zoning Ordinance should an experienced marijuana establishment operator of a medical marijuana treatment center convert into a retail marijuana establishment.

6.10.3 Definitions. The following definitions, consistent with M.G.L.A. c. 94G, shall apply in the interpretation and enforcement of this section:

1. Marijuana cultivation facility - An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
2. Marijuana manufacturing facility - An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

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3. Marijuana testing facility - A laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the commission.
 4. Marijuana retailer - An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

6.10.4 Special Permit Required. The Zoning Board of Appeals may grant a special permit for marijuana establishments, as defined in M.G.L.A. c. 94G, in accordance with the standards set forth in this section and the general criteria for granting a special permit contained in Section 9.4 of the Zoning Ordinance.

6.10.5 Requirements.

1. It shall be unlawful for any person to operate a marijuana establishment without obtaining a special permit to operate pursuant to the requirements of this Ordinance.
2. A separate special permit is required for each different marijuana establishment detailed in Section 6.10.3, above. In the case that one or more different types of marijuana establishments are proposed, each establishment type shall require a special permit from the Zoning Board of Appeals.
3. The special permit requirements set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
4. The issuance of a special permit pursuant this chapter does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.
5. A special permit issued for a marijuana establishment is not transferable or assignable to a different location or a different type of marijuana establishment.

6.10.6 General Provisions. The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G, including marijuana cultivation facilities, manufacturing facilities, testing facilities, and retail establishments:

1. Security, Operations, and Emergency Plans. All marijuana establishments shall file a security plan, operation and management plan, and emergency plan with the Salem Police Department:
 - a. Security Plan.
 - i. The petitioner shall submit a security plan to the Salem Police Department and Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
 - ii. The security plan shall include the details of all security measures for the site and the transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity.
 - b. Operation and Management Plan. All marijuana establishments shall submit an operation and management plan to the Building Department which shall include, but not be limited to the following elements: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, description of proposed operations, distribution practices, employee safety, general

compliance, fire prevention, sanitation requirements, electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand prior to the issuance of a building permit.

- c. Emergency Response Plan. All marijuana establishments shall meet with the Salem Fire Department and the Salem Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of occupancy. A written Emergency Response Plan shall be filed with the Salem Fire Department and the Salem Police Department pursuant to M.G.L.A. c. 94G, § 12.
2. A marijuana establishment may only be involved in the use permitted by its definition. Retail marijuana establishments may only be located in buildings with other uses, including other types of marijuana establishments, only if the marijuana establishment is separated by full walls from the other use.
3. All marijuana establishments shall be within a fully enclosed building.
4. Marijuana establishments shall not be located in mobile structures.
5. Pursuant to M.G.L.A. c. 94G, § 5(b)(3), a marijuana establishment shall not be located within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
6. Marijuana establishments shall, at a minimum, meet the requirements imposed on registered marijuana dispensaries for storage.
7. No odor from marijuana establishments may be noxious or cause a public nuisance.
8. No retail marijuana establishment shall be managed by any person other than the licensee or their assign. Such licensee or assign shall be on the premises during regular hours of operation and responsible for all activities within the licensed business and shall provide up to date emergency contact information for the Salem Police Department to have on file.
9. All waste disposal, shall at a minimum, meet the requirements imposed on registered marijuana dispensaries for disposal to prevent exposure to the public or create a nuisance.
10. The marijuana establishment shall remove all material, plants, equipment, and any other retail marijuana establishment items upon ceasing its operation.
11. All business signage shall be subject to the requirements to be promulgated by the Cannabis Control Commission and the requirements of Sections 4-31 through 4-60 of the Code of Ordinances.
12. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed marijuana establishment.
13. Hours of operation for marijuana retailers shall be consistent with those of package stores licensed under M.G.L.A. c. 138.

6.10.7 Application Procedure and Submission Requirements. If a Special Permit is required by *Section 3.0 Table of Principle and Accessory Uses* of the Zoning Ordinance, the petitioner (Applicant) shall submit a standard petition form and materials of the Zoning Board of Appeals application in addition to the following required materials:

1. Notice from the City shall be sent by mail, postage prepaid to "parties in interest" as used in M.G.L.A. c. 40A within five hundred (500) feet of the property line of the petitioner as they appear on the most recent applicable tax list.
2. Applicant shall submit proof of approval from the Commonwealth of Massachusetts for the proposed marijuana establishment by submitting copies of all required registrations, licenses and permits issued to the applicant by the state and any of its agencies for the facility as well as the letter of support or non-opposition issued by the city.

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3. The Applicant shall submit proof of site control and right to use the premises proposed for the marijuana establishment and may include a deed, notarized statement from the property owner and a copy of the lease agreement, or real estate contract contingent upon successful licensing, or a letter of intent by the owner of the premises indicating intent to lease the premises to the petitioner contingent upon successful permitting.
 4. In addition to complying with any other state or city requirement related to good character and criminal background, any person or entity proposed to have interests in the license to operate a marijuana establishment shall not have committed any marijuana licensing violation affecting public safety, or received any suspension or revocation of any other state or local marijuana business licenses.
 5. A statement signed by the organization's chief executive officer disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly situated individuals. If any of the above are entities rather than persons, the Applicant must disclose the identity and current contact information of all responsible individuals.
 6. A detailed description of the proposed activities to occur on site in relation to the standard special permit criteria set out in Section 9.4 of the Salem Zoning Ordinance and specific requirements set forth in this chapter.
 7. The petitioner shall submit a security plan to the Salem Police Department and the Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
 8. The petitioner shall submit an operation and management plan to the Salem Police Department and the Department of Planning and Community Development.
 9. The petitioner shall submit a copy of an Emergency Response Plan to the Salem Police Department, the Salem Fire Department, and the Department of Planning and Community Development.
 10. The petitioner shall submit proof that it provided notification in writing to all churches, libraries, institutions of higher education, licensed daycares, nursery schools, or playgrounds within five hundred (500) feet of its proposed location to provide them with the opportunity to comment at the Board of Appeals.

6.10.8 Special Permit Findings. In addition to the findings for a special permit in Section 9.4 of the Zoning Ordinance, the Zoning Board of Appeals must also make the following findings:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L.A. c. 94G, § 12 *General Marijuana Establishment Operation*.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and location of cultivation is adequately secured.

6.10.9 Requirements Specific to Marijuana Cultivation Facilities. As the cultivation and processing of marijuana is not considered agriculture under M.G.L.A. c. 128, § 1A, and is subject to M.G.L.A. c. 94G, § 12, the following restrictions to ensure the health, safety, well-being of the public, and limit undue impacts on the natural environment as it relates to cultivation, shall apply:

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1. All marijuana cultivation facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
 2. All marijuana cultivation facilities shall use LEDs for all fixtures except for those that are used in flowering rooms. High Pressure Sodium grow lights may be used for no more than fifty (50) percent of the total square footage of the cultivation area to maximize flowering conditions and limit electricity demand.
 3. No more than one-half ½ of the marijuana plans may be mature, flowering plants.
 4. No pesticides, insecticides, or other chemicals shall be used in the cultivation of marijuana.
 5. Marijuana cultivators shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

6.10.10 Requirements Specific to Marijuana Manufacturing Facilities. Marijuana manufacturing facilities shall be subject to M.G.L.A. c. 94G, § 12 and the following restrictions to ensure the health, safety, and well-being of the public, and limit any undue impacts on the natural environment as it relates to manufacturing, shall apply:

1. All marijuana manufacturing facilities shall use high-efficiency lights and manufacturing equipment to limit energy and water usage demand.
2. All marijuana manufacturing facilities shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

6.10.11 Requirements Specific to Marijuana Testing Facilities.

1. All marijuana testing facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
2. Marijuana testing facilities shall be subject to the requirements of M.G.L.A. c. 94G, § 15 and any regulations that the Cannabis Control Commission may promulgate thereunder to ensure there are no undue impacts on the health, safety, and well-being of the public.

6.10.12 Requirements Specific to Marijuana Retailer Establishments. Marijuana retailers shall be subject to M.G.L.A. c. 94G, § 12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

1. As defined in M.G.L.A. c. 94G, and as established in Section 24-30 of the Code of Ordinances, the number of marijuana retailers shall be limited to no more than twenty (20) percent of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L.A. c. 138, § 15.
2. All marijuana retail establishments shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

6.10.13 Unlawful Acts.

1. It shall be unlawful for any person to operate any marijuana establishment in the city without a valid license issued by the state licensing authority under the M.G.L.A. c. 94G.
2. When a marijuana establishment has received a renewal license from the state, the business shall submit a copy to the Department of Planning and Community Development and the Building Department within thirty (30) days of receipt.
3. It shall be unlawful for any person to operate any retail marijuana, marijuana product manufacturing, or marijuana cultivation establishment without a special permit from the City of Salem Zoning Board of Appeals.

6.10.14 Severability. If any provision of this section is invalidated by subsequent legislation or regulation, or held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. of 2-22-18(2) ; Ord. of 4-14-22)

10.0 DEFINITIONS

In this Ordinance, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Ordinance. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Ordinance.

Accessory building: A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

Affordable Accessory Dwelling Unit: A housekeeping unit with a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) fair market rent limit for Salem, with its own sleeping, cooking and sanitary facilities, located either in a detached accessory building, or within or attached to a principal dwelling and subordinate in size to the principal unit(s), separated from it in a manner which maintains the appearance of the principal unit(s), and allowed pursuant to Section 3.2.8 of this ordinance.

Accessory use: A use customarily incidental to that of the main or principal building or use of the land.

Adult day care facility: A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

Agriculture, Urban (Urban Agriculture): An umbrella term that describes a range of accessory food and plant growing practices, either for personal use or for sale as an accessory use, that may include composting, the keeping of domestic fowl and honeybees, but does not include other livestock.

Alterations, structural: Any change or rearrangement in the supporting members of a building, such as bearing walls, columns, beams or girders.

Amusement arcade: Any lot licensed to maintain three (3) or more commercial amusement devices that are regulated by Section 177A of Chapter 140 of the General Laws.

Amusements, commercial: Any amusement device licensed under the provision of Massachusetts General Laws, Chapter 140, Section 177A.

Animal clinic or hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

Antenna: The surface from which wireless radio signals are sent and received by a personal wireless communication facility.

Arbor: An accessory Structure consisting of an open frame, freestanding or attached to another structure, with horizontal and/or vertical latticework often used as a support for climbing food or ornamental crops.

Assisted Living Residences: Offer a combination of housing, meals and personal service care to adults for a fee that includes room and board and services. Assisted living residences are intended for adults who may need some help with activities such as housekeeping, meals, bathing, dressing, and/or medication assistance and who like the security of having assistance available on a 24 hour basis in a home-like and non-institutional environment. Assisted living residences do not provide medical or nursing services and are not designed for people who need serious medical care on an ongoing basis.

Bed and breakfast establishment: Accommodations with not more than six (6) bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guest on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

Brewery, distillery, or winery with a tasting room: A business located in a building where the primary use is for the production and distribution of malt, spirituous, or vinous beverages with a tasting room as defined in Section 10.0. Any such facility that only provides samples at no charge and limited in size as set forth in M.G.L. c. 138 shall have a Commonwealth of Massachusetts issued Farmer Series License and any such facility that sells alcoholic beverages to be consumed on the premises shall have a Commonwealth of Massachusetts issued Farmer Series Pouring License. The facility may host marketing events, special events, and/or factory tours. The facility may only sell beverages produced by, and commercial goods branded by, the brewery, distillery or winery. The facility may sell permitted beverages by the bottle to consumers for consumption off the brewery premises.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building, attached: A building, having one (1) portion completely separated from another portion by a division wall without openings.

Building, detached: A building, usually an accessory building, having no direct attachment to the principal building on the lot.

Building line: The line of a building face, which face shall include cornices projecting more than twelve (12) inches, balconies, sun parlors, covered porches and entrances, whether enclosed or unenclosed, but shall not include steps.

Building, principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building coverage: That percentage of the lot or plot area covered by the roof area of a building or buildings.

Building height: Building height shall be measured from the average elevation of the proposed finished grade at the front line of the building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Fences and walls shall be measured from the Finished grade vertically to the highest point.

Business or professional office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Capital improvements program: The capital improvements program shall be prepared by the Planning Board, assisted by the planning department, and approved by the mayor and the City Council. This capital improvements program shall be in seven-year incremental periods of effectiveness, not to exceed a total of twenty-one (21) years, for the development of the City in accord with the master plan and official zoning map in order to provide for maximum orderly, adequate and economical provision of transportation, water, sewerage, drainage, parks and recreation, schools, municipal facilities and structures and other public requirements.

Carrier: Company that provides wireless services.

Child care facility: A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9.

City: The City of Salem.

Club or lodge, private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Co-location: The use of a monopole by more than one (1) carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one (1) carrier (horizontal co-location).

Coldframe: A Temporary Structure that is an accessory unheated outdoor Structure built close to the ground, no higher than thirty-six inches (36") typically consisting of, but not limited to, a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from cold weather.

Commercial Farm, Exempt (noun): Protected by M.G.L.A. c. 40A, § 3- meaning the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities shall be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For the purposes of this definition, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof; provided, however, that the terms agriculture, aquaculture, floriculture and horticulture shall not include the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the acts of 2012, marijuana as defined in section 1 of chapter 94C or marijuana or marijuana as defined in section 1 of chapter 94G.

Commercial recreation, indoor: A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, amusement arcade, or other commercial recreational centers conducted for or not for profit.

Commercial recreation, outdoor: Drive-in theatre, driving range, miniature golf course, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this Ordinance.

Composting: A process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can safely be used as fertilizer.

Contractor's yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

Coop: An enclosed shelter that houses domestic fowl.

Domestic fowl: A breed of bird specialized for meat production and/or egg laying and specifically excluding roosters.

Drive-in restaurants or snack bars: Any eating establishment where commodities are consumed on the premises but outside the principal building.

Drive-through facility: A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle. This shall not include, for example, the selling of fuel at a motor fuel facility, quick-change oil automotive service stations, or the accessory functions of a car wash facility such as vacuum cleaning stations.

Drive-through facility—fast food: A drive-through facility that serves food or drink.

Drive-through facility—other: Drive-through facility that does not include food or drink; includes, banks, pharmacies and similar uses.

Dwelling, multifamily: A building designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

Dwelling, single-family: A detached building designed for or occupied by one (1) family only.

Dwelling, two-family: A building designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each. A so-called duplex dwelling, even though having two (2) separate entrances and street numbers, shall be construed as being a single building.

Dwelling unit: A building or portion thereof providing complete housekeeping and cooking facilities for one (1) family, as defined by the Commonwealth of Massachusetts State Building Code Regulations & Standards 780 CMR .

Educational use, nonexempt: Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

Essential services: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

FAA: The Federal Aviation Administration.

Fall zone: The area on the ground within the prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Family: One (1) or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit; provided that a group of three (3) or more persons who are not within some degree of kinship shall not be deemed to constitute a family.

Family day care home: Any private residence operating a facility as defined in G.L. c. 28A, s. 9.

Farm Stand (Accessory): A Temporary Structure such as a table, stall or tent, operated by a sole vendor for the purpose of selling clean, whole, eggs, or honey, unprocessed produce and plants, all of which must be grown or produced on site.

Farm Structures: Includes, but are not limited to, sheds, compost bins, shade pavilions, trellises or other vertical supports for growing crops, and structures used to extend the growing season such as Greenhouses, Hoop houses, Coops, Coldframes and similar structures.

FCC: The Federal Communications Commission.

Floor area, gross: The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

Floor area ratio (FAR): A mathematical expression determined by dividing total gross floor area of a building by the area of the lot on which it is located. For example, a one acre lot with a FAR of .75 could contain thirty-two thousand six hundred seventy (32,670) square feet of gross floor area ($43,560 \times .75 = 32,670$).

Funeral home: Facility for the conducting of funerals and related activities such as embalming.

Garden, home/yard: An accessory use on a residential lot to grow plants and produce for beautification, recreation, and personal consumption. The garden may be outdoors, in an accessory structure or on the roof of a structure. Sales are prohibited.

General service establishment: An establishment providing general services such as upholstery, appliance repair, and furniture refinishing.

Greenhouse: A Structure primarily constructed of a frame and transparent plastic material, in which temperature and humidity can be controlled for the cultivation or protection of plants or other agricultural products. All greenhouse structures are subject to setback and building code requirements.

Grocery store: An indoor retail operation selling groceries, produce, meat and fish, and baked goods, with only incidental or minor sales of other convenience and household goods, not exceeding fifteen thousand (15,000) square feet of gross floor area.

Guyed tower: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Ground structure: A wireless communications structure anchored to the ground.

Hens: Female chickens.

Historic carriage house: An accessory or outbuilding, originally built to house carriages, horses, or for use as a barn, that has been in existence since 1900 at its present location.

Honeybee: A common domestic bee, *Apis mellifera* species.

Hoop house: An accessory Temporary Structure typically made of, but not limited to flexible PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of growing food or ornamental crops.

Hospital: A building in which physical and mental ailments of human beings are treated, including convalescent care, as differentiated from clinics.

Hotel, motel or inn: A building containing rooms rented or hired out, or designed to be rented or hired out, for sleeping purposes by guests. A general kitchen, dining room, drugstore or newsstand, intended primarily for serving the building's occupants and only incidentally the public, may be provided within the building or in an accessory building.

Impervious: Any area impenetrable by surface water.

Junk: Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning cannot be used for its original purpose as readily as when new shall be considered junk.

Junkyard or automobile graveyard: The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

Kennel, commercial: A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold located on at least five (5) acres of land.

Lattice tower: A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

Licensed carrier: A company authorized by the FCC to construct and operate a commercial mobile radio service system.

Light manufacturing: Fabrication, assembly, processing, finishing work or packaging.

Livestock: Any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle.

Lot: A parcel or adjacent parcels of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other definite purpose, in one (1) ownership and not divided by a street, not including any land within the limits of a public or private way upon which such lot abuts, even if the fee to such way is in the owner of the lot. Such lot shall have frontage on an improved public street.

Lot, corner: A lot which has an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines tangent to the foremost points of the side lot lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.

Lot of record: A lot which is part of a subdivision recorded in the registry of deeds or the land court or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot, through: A lot other than a corner lot with frontage on more than one (1) street.

Lot, frontage of: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.

Lot line: A line dividing one lot from another, or from a street or any public place.

Lot width: The minimum lot width required shall be measured at the rear of the required front yard depth and on a line parallel to the right-of-way line where a plan of the right-of-way is on file with the registry of deeds or, in the absence of such a plan, from a line twenty-five (25) feet from and parallel with the centerline of the traveled way.

Manufacturing: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding the following: Acid manufacture; cement, lime, gypsum or plaster of Paris manufacture; production of chlorine or similar noxious gases; distillation of bones; drop-forge industries manufacturing forging with power hammers; manufacture or storage of explosives in bulk quantities; fertilizer manufacture; garbage, offal, or dead animal reduction or dumping; glue manufacture; hair manufacture; petroleum refining; processing of sauerkraut, vinegar or yeast; rendering or refining of fats or oils; smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill; stockyard or feeding pen; slaughter of animals, not including the killing of fowl.

Marijuana or marihuana: All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L.A. c. 94C § 1; provided that "Marijuana" shall not include: the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

1. Hemp; or
2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana accessories: Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana cultivator: An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana establishment: A marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

Marijuana manufacturing: To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

Marijuana processing: To harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means.

Marijuana products: Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana product manufacturer: An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana retailer: An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Marijuana testing facility: An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

Marina: A waterfront area having a dock or mooring facilities for boats for rental purposes; fuel and oil for boats only may be sold on the premises. Shore facilities similar to motels may occupy contiguous land areas.

Medical Clinic: Any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained for the purpose of providing ambulatory, out-patient medical, surgical, physical, mental health or addictive relief services for human beings. In addition, clinic shall include any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained under a name which includes the word clinic, "dispensary", or "institute", and which suggests that the organization is formed for the dispensing of medication or providing ambulatory, out-patient medical, surgical, physical, mental health or addictive relief services. Clinic shall not include dental clinics operated by local school and health departments for the sole purpose of providing education and dental hygiene services including routine examinations, cleaning and topical fluoride applications. Clinic shall not include ad hoc health promotions, screenings or wellness programs.

Medical or dental office: An office building or part thereof not a "Medical Clinic", "dispensary", or "institute" but rather one or more practitioners engaged in a solo or group practice, whether conducted for profit or not for profit, and however organized, wholly owned and controlled by one or more of the practitioners.

Mini-storage storage facility: A facility for the self-storage of personal or business related items or goods.

Mobile home: A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

Monopole: A type of mount that's self-supporting with a single shaft of steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Motor vehicle body repair: An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

Motor vehicle general repairs: Premises for the servicing and repair of autos, but not to include fuel sales.

Motor vehicle light service: Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

Mount: The structure or surface upon which antennas are mounted, including the following four (4) types of mounts: roof-mounted, side mounted (side of a building), ground-mounted, structure mounted (structure other than a building).

Municipal facilities: Facilities and buildings owned or operated by the City of Salem.

Net-zero energy site: A site that is optimally efficient, and over the course of a year, generates energy onsite, using clean renewable resources, in a quantity equal to or greater than the total amount of energy consumed onsite.

Net-zero-energy plan: A document outlining a development's energy sources, locations (on or off-site), and consumption. The Plan outlines how the development can become a net-zero energy site, as defined above; or, why achieving net-zero energy site is not possible through renewable resources on-site, given site or other constraints.

Non-owner-occupied short-term rental: A dwelling unit where the owner does not live in either the unit, the building, or otherwise on the property and which was being used as a short-term rental prior to the date the general ordinance, Chapter 15 Short-Term Rentals, was filed with the City Clerk for consideration by the City Council.

Nonresidential structure: Such structures as buildings, garages, steeples, and water towers, but does not include houses or apartments.

Nursing or convalescent home: As defined by Section 71 of Chapter 111 of the General Laws: A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for purposes of nursing or convalescent care

Open air motion picture theater: An open air (covered or uncovered with no sidewalls) parking area for vehicles where motion pictures are projected onto a large uncovered screen. The projection and sound equipment shall be housed in an enclosed structure.

Parking garage: A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

Personal service establishment: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Planning Board: The Planning Board of the City of Salem as established by Chapter 41, Section 70 of the General Laws.

Planning Department: The Planning Department of the City of Salem.

Preliminary application: An application which may be submitted by a developer prior to formal application for a development permit in order that a given parcel can be reviewed in relation to the standards of issuance for residential development contained herein.

Raised Bed: Method of cultivation in which soil is placed over a geotextile barrier, raised and ordinarily formed into three (3) to four (4) foot wide mounds. The soil may be enclosed by a frame generally made of untreated wood. Raised beds are not considered a Structure.

Radio frequency radiation (RFR): The emissions from personal wireless service facilities.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Repairs: Work of a reconstruction or renewal nature on any existing part of a building or structure but excluding a structural alteration.

Restaurant: A building, or portion thereof, containing tables and/or booths for at least two-thirds ($\frac{2}{3}$) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments."

Restaurant, fast-food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

Retail: A facility selling goods but not specifically listed in the Table of Use Regulations.

Right-of-way line: A line separating a public street or way from a lot.

Roof Farm: Urban agriculture, on a roof of a principal or accessory structure with the intent to make personal use of or to sell whole, unprocessed produce, honey and/or eggs as an accessory use or, in the case of a commercial use, to be used in products sold on-site. All sales are subject to compliance with local, state and federal regulations.

Roof structure: A wireless communication structure mounted on a roof of a building or the top of a water tower.

Rooming, boarding or lodging house: A house where lodgings are let to four (4) or more persons not within second degree of kindred to the person conducting it, and shall include collegiate Greek system residencies and dormitories of educational institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under section seventy-one of chapter one hundred eleven or rest homes so licensed, or group residences licensed or regulated by agencies of the Commonwealth.

Run: An outdoor enclosure generally made of wire mesh.

Security barrier: A locked, impenetrable wall, fence or berm that completely conceals an area from unauthorized entry or trespass.

Separation: The distance between one (1) carrier's array of antennas and another carrier's array.

Short-term rental: A short-term rental is the use of a dwelling unit for residential occupancy for a period of fewer than thirty (30) consecutive calendar days for a fee. A short-term rental may or may not be facilitated through an online booking agent.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which such device is located, whether such device is a separate structure or object or attached to or painted on another structure or object.

Sign area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matters shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs need be included in calculating sign area.

Site Plan Review: Site plan review is a review process established by the City to protect and promote health, safety, convenience and general welfare of the residents of Salem. Site plan review establishes criteria for the layout, scale, appearance, safety, and environmental impacts of development. Site plan review focuses on parking, traffic, drainage, utilities, landscaping, lighting and other aspects of the proposal to arrive at the best possible design for the location.

Solar Access: The access of a solar energy system to direct sunlight.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Canopy-Mounted: An active solar energy system that creates a roof over an existing parking lot; may be of any size (small, medium, large), so long as it complies with Section 3.2.4 Accessory Buildings and Structures.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large-Scale: An Active Solar Energy System that occupies more than 20,001 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Medium-Scale: An Active Solar Energy System that occupies more than 1,751 but less than 20,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).

Solar Energy System, Off-Grid: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale: An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

Solar Thermal System: An Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.

Special permit use: A use which would not be appropriate generally or without restriction throughout the district but which, if controlled in a neighborhood, would promote the public health, safety, convenience, morals and welfare of the City's inhabitants.

Stacking lane: An area of stacking spaces and driving lanes provided for vehicles waiting for drive-through service.

Stacking space: An area within a stacking lane for vehicles waiting to order and/or finish a drive-through transaction.

Story: As defined in the State Building Code.

Story, half: A story under a gable or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such story.

Street: A public or private way which affords the principal means of access to abutting properties.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Supermarket: An indoor retail operation selling primarily groceries, produce, meat and fish, baked goods, and other convenience and household goods exceeding fifteen thousand (15,000) square feet of gross floor area.

Swimming pool: An artificial pool, uncovered or enclosed, used for recreational swimming and not less than twenty-four (24) inches deep nor having a surface area of less than two hundred fifty (250) square feet.

Tasting room: A room attached to either a brewery, distillery or winery that allows patrons to sample or consume wine, beer, and other alcoholic beverages that are produced on-site in accordance with M.G.L. c. 138. A tasting room may not be greater than fifty (50) percent of the main building's gross square footage. A seasonal tasting area is permissible, e.g. patio or deck, but shall not be included in calculating the tasting room's square footage for purposes of zoning compliance; however, the square footage of a seasonal tasting area is applicable to building, plumbing and other relevant codes.

Temporary structure: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the Building Commissioner.

Trailer: A vehicle used or designed to be used for living purposes. The terms "travel trailer," pickup coach," "pickup camper," "motorized camper," tent trailer," "mobile home," etc., or terms of similar import shall be interpreted as having the same meaning as the term "trailer."

Transportation terminal: Terminal facilities for handling freight with or without maintenance facilities.

Use: The specific purpose for which land, or a building and land, is designed, arranged intended, or for which it is or may be occupied or maintained.

Variance: A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship.

Veterinary hospital (animal clinic): A building whose sole use will be the medical or surgical treatment of animals, reptiles or birds. Patients may be boarded on the premises not longer than twenty (20) days. The building shall not be used for breeding purposes or as a kennel.

Warehouse, wholesale, or distribution facility: A building used primarily for the storage of goods and materials intended for distribution, but not for sale on the premises to the general public.

Waterfront boat yard: An open area where boats may be stored and/or repaired. Appurtenant structures for housing repair shops and general storage may be allowed. Painting materials may be stored and sold in the yard. No fuel or oil shall be stored or sold. The yard must have direct frontage on navigable waterways.

Waterfront yacht club (clubhouse): A structure housing facilities for a nonprofit club whose members are primarily interested in recreational yachting activities. The clubhouse shall occupy land directly fronting on the waterfront. The structure may have general recreational facilities, toilet rooms, kitchen, dining room and general storage

rooms. There shall be no bedrooms or sleeping accommodations in the building. Fuel and oil may be sold from dockside facilities, for use on boats only.

Way: A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Wireless communication building (WCB): Any building or shelter used to house equipment used primarily for the installation and operation of equipment for generating and detecting electromagnetic radiation and is an accessory to a wireless communication structure.

Wireless communication device (WCD): Antenna, appurtenance, wiring, or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

Wireless communication facility (WCF): Shall be used as a general term to include wireless communication building, wireless communication device, and wireless communication structure.

Wireless communication structure (WCS): Shall mean a monopole intended to support equipment used for the transmission and reception of electromagnetic radiation, including antennas, wiring or other devices attached thereto.

Yard: An open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

Yard Farm: Urban agriculture on a residential Lot with intent to make personal use of or to sell whole, unprocessed produce, honey and/or eggs as an accessory use. All sales are subject to compliance with local, state and federal regulations including Board of Health soil testing requirements.

Yard, front: An open unoccupied space on the same lot with the principal building between the front line of the building and the right-of-way line and extending the full width of the lot.

Yard, rear: An open unoccupied space on the same lot with the principal building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard, side: An open unoccupied space on the same lot with the principal building and extending from the front yard to the rear yard.

Zoning Board of Appeals: The Zoning Board of Appeals as established by Chapter 40A, Section 12 of the Massachusetts General Laws.

(Ord. No. 9-9-10, § IV; Ord. of 9-11-14 , § I; Ord. of 12-11-14(3) ; Ord. of 5-12-16(1) , § 1; Ord. of 1-11-18(2) , § 2; Ord. of 2-22-18(1) ; Ord. of 6-28-18 , § 1; Ord. of 11-15-18 ; Ord. of 5-27-21 (1), § 2; Ord. of 9-9-21 , § 20; Ord. of 5-26-22(2) , § 11)

General Laws Accepted by Salem:

December 7, 2017	c.	64N, § 3 The City of Salem hereby accepts M.G.L.A. ch. 64N, § 3 which allows the city to impose a local sales tax upon sale or transfer of marijuana or marijuana products by a marijuana retailer to anyone other than a marijuana establishment at a rate not greater than three percent of the total sales price received by the marijuana retailer.
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December 7, 2017	c.	64N, § 3 The City hereby imposes a local tax of three percent upon sale or transfer of marijuana or marijuana products by a marijuana retailer to anyone other than a marijuana establishment.
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