



TOWN OF WASHINGTON, MAINE
ADULT USE MARIJUANA LICENSING ORDINANCE

Adopted: July 18, 2020

ATTEST:

Mary Anderson, Town Clerk



Date: July 18, 2020

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Adopted July 18, 2020
Effective upon enactment

ARTICLE I. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A(14) and 28-B M.R.S. § 402. The purpose of this Ordinance is to set forth procedure and standards for the issuance of local licenses for Marijuana Establishments in order to protect public health, safety and welfare.

ARTICLE II. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. All other terms used in this Ordinance, if not defined below, shall have the same definition as set forth in the Town of Washington Zoning Ordinance.

Applicant shall mean a person who has submitted an application for licensure as a Marijuana Establishment pursuant to this Ordinance.

Licensed Premises shall mean the premises specified in an application for a license pursuant to this Ordinance or within a license issued pursuant to this Ordinance.

Licensee shall mean a person licensed pursuant to this Ordinance.

Local Licensing Authority shall mean the Code Enforcement Officer or, if referral to the Board of Selectmen is required pursuant to this Ordinance, the Board of Selectmen.

Loitering shall mean spending more than ten (10) minutes in the parking area of a Licensed Premises or outside the facility but still on the Licensed Premises.

Marijuana Establishment shall mean a Marijuana Cultivation Facility, Marijuana Retail Store, Marijuana Testing Facility, or a Marijuana Manufacturing Facility.

Owner shall mean a person whose beneficial interest in a Marijuana Establishment is such that the person bears risk of loss other than an insurer, has an opportunity to gain profit from the operation or sale of a Marijuana Establishment and/or has a controlling interest in a Marijuana Establishment.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Premises shall mean the physical location at which a Marijuana Establishment is to conduct its business.

State License shall mean any license issued by a State Licensing Authority.

State Licensing Authority shall mean the authority created or designated by the State for the purpose of regulating and controlling licensing for Marijuana Establishments.

ARTICLE III. License Requirement

Effective August 1, 2020, a Marijuana Establishment shall not begin or continue operations unless it has received and is possession of a license issued pursuant to this Ordinance.

ARTICLE IV. Licensing Authority

All license applications, whether new or renewal, shall be reviewed and may be approved by the Code Enforcement Officer (“CEO”). Application shall be made in writing using a form prepared by the Town for the purpose and must include all information required by this Ordinance and by the form. Prior to action on a license application, the CEO shall give public notice of the application by having a sign posted in a conspicuous place on the Premises listed on the license application at least seven (7) days prior to action, and by publication in a newspaper of general circulation in the town of Washington at least seven (7) days prior to action.

Home-Based Applicants are not required to file a Site Plan Approval request with the Washington Planning Board. All other Applicants are required to file a Site Plan Approval request with the Washington Planning Board and Code Enforcement Officer.

All Growing Facilities and all new construction for other Marijuana Establishments and any existing structure or expansion thereof measuring 1,000 square feet or more of total area, including all entry ways, decks and porches, storage areas, closets, and ancillary spaces must have a sprinkler system installed that is approved by the Fire Chief.

ARTICLE V. Marijuana Establishments by District

The following table shows the type of establishment allowed in each District as governed by the Official Land Use Map, Town of Washington, Maine, adopted March 26, 2010. Marijuana Establishments are not permitted in any other district.

Establishment Type	Rural Commercial	Rural	Farm & Forest
Marijuana Cultivation	Permitted	Permitted	Permitted
Marijuana Retail Sales	Permitted	Not Permitted	Not Permitted
Marijuana Testing Facilities	Permitted	Not Permitted	Not Permitted
Marijuana Manufacturing Facilities	Permitted	Not Permitted	Not Permitted

ARTICLE VI. Review Procedures

The review procedures described below shall be the same for initial license applications as well as renewals. In reviewing license applications, the Licensing Authority and any consulting Town officials may consider the approval standards under this Ordinance as well as other applicable local, state or federal laws and, for license renewals, the Licensee's record of compliance with the same.

- i. The Code Enforcement Officer shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this ordinance and to obtain recommendations from other Town officials as required. The CEO shall be empowered to make site inspections. Before conducting an inspection, the CEO will provide seven (7) days notice to a Licensee prior to making a site visit.
- ii. The Licensing Authority shall have the authority to impose any conditions on a license that may be reasonably necessary to insure compliance with the requirements of this Ordinance or to address concerns about operations. Failure of any Licensee to comply with such conditions shall be considered in violation of the license and of this Ordinance.
- iii. No license shall be granted by the Code Enforcement Officer until the Knox County Sheriff, Fire Chief, Health Inspector and Code Enforcement Officer have all made positive recommendations regarding the Applicant's ability to comply with this ordinance or any other applicable Town ordinance or state or federal law enforced by such officials. The Code Enforcement Officer shall provide a copy of the license application to each official along with a form upon which the official shall note his or her findings and conclusions, as well as any recommended conditions of approval. The Code Enforcement Officer shall automatically include any conditions of approval recommended by the officials on the issued license.
- iv. If any official consulted by the Code Enforcement Officer finds that a license application should not be approved, the application shall be forwarded to the Board of Selectmen for further review. The Board of Selectmen shall, upon review of all staff recommendations and applicable laws, make the final determination as to whether the license should be issued and/or any conditions be attached.
- v. Licenses shall be approved only for the type(s) of Marijuana Establishment(s) identified in the application. A Licensee who intends to expand or convert the licensed Premises to a type of Marijuana Establishment that is not specifically approved in a license must obtain a new license for that use.
- vi. Any municipal official with authority to make recommendations, grant licenses or enforce this or other municipal ordinances regarding Marijuana Establishments shall have authority to enter the premises of an Applicant or Licensee with seven (7) days notice to make any inspection reasonably necessary to ensure compliance.

ARTICLE VII. Application Submission Requirements

Each application for a Marijuana Establishment license shall complete and file an application on the form provided by the Code Enforcement Officer, together with the applicable license fee as well as the following supporting materials:

- i. A copy of the Applicant's State License application and supporting documentations, as submitted to the State Licensing Authority.
- ii. Evidence of all State approvals or conditional approvals required to operate a Marijuana Establishment, including, but not limited to, a State License as defined by this Ordinance, a State retail certificate, or a State health license.
- iii. If not included in the Applicant's State License application, attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the Marijuana Establishment.
- iv. If not included in the Applicant's State License application, an affidavit that identifies all owners, officers, members, managers or partners of the Applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three (3) years. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.
- v. Evidence of all land use approvals or conditional land use approvals required to operate the Marijuana Establishment, including, but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy.
- vi. Evidence of all other local approvals or conditional approvals required to operate the Marijuana Establishment.
- vii. A description of the premises for which the license is sought, including a plan of the premises.

If the Code Enforcement Officer determines that a submitted application is not complete, he or she shall notify the applicant within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the CEO's request, the application may be denied.

ARTICLE VIII. License Term and Renewal

Each license issued under this ordinance shall be valid for the term of the license granted by the State License Authority ("the license year"). Applications for renewal licenses shall be submitted at least 90 days prior to expiration of the existing term. Any Licensee who fails to submit a renewal application by the applicable deadline shall have not authority to operate until a license is granted. A late fee shall apply as established by the Board of Selectmen.

ARTICLE IX. Denial, Suspension or Revocation of a License

- A. Denials. A license application for a Marijuana Establishment shall be denied by the Licensing Authority, and an existing license may be suspended or revoked by the Board of Selectmen after notice and hearing, if the applicant, or any Owner of the applicant or Licensee:
- i. Fails to meet the requirements of this Ordinance
 - ii. Is not at least twenty-one years of age.
 - iii. Is not a resident of the State of Maine
 - iv. Have had a license for a Marijuana Establishment revoked by the Town or by the State.
 - v. Has not acquired all necessary state and local approvals prior to issuance of the license.
 - vi. Has been convicted of a criminal violation arising out of operation of a Marijuana Establishment.
 - vii. Has provided false or misleading application in connection with the license application.
- B. Approval and Operating Requirements
In order to obtain a license pursuant to this Ordinance, the Licensee shall demonstrate to the Code Enforcement Officer and all reviewing officials that the following requirements will be met. The Licensee shall comply with all of these requirements during the term of the license:
- C. Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.
- D. All licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Establishments in other than the licensed Premises, such as at farmer's markets, farm stands or kiosks.
- E. Security.
1. Security Measures Required
 - (a) The licensed Premises shall have lockable doors and windows and shall be served by an alarm system which includes automatic notification to the Knox County Sheriff.
 - (b) The licensed Premises shall have video surveillance capable of covering the exterior and interior of the facility. The video surveillance system shall be operated with continuous recording twenty-four hours per day, seven days per week and video shall be retained for a minimum duration of thirty (30) days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.
 - (c) The licensed Premises shall have exterior spot lights with motion sensors covering the full perimeter of the building(s).
- F. Ventilation
- (a) The licensed Premises shall comply with all odor and air pollution standards established by the ordinance.
 - (b) All Marijuana Establishments shall have an odor mitigation system installed that has been approved by the Maine licensed engineer, indicating that the system will provide

odor control sufficient to ensure that no objectionable odors are perceptible off the Premises.

G. Loitering

The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the Premises.

- H. A Marijuana Establishment shall meet all operating and other requirements of state and local law. To the extent the State of Maine has adopted or adopts in the future any law or regulation governing Marijuana Establishments that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.**

ARTICLE X. Transfer of Ownership or Change of Location

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new license for that location.

ARTICLE XI. Appeals

The following appeals may be decided by the Board of Selectmen upon a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law:

- A. Appeal of the Code Enforcement Officer's denial of an application for lack of completeness.
- B. Appeal by any aggrieved party having legal standing of any decision by the Code Enforcement Officer to grant a license under this Ordinance.
- C. Appeal by the applicant of any permit granted by the Code Enforcement Officer with conditions to which the applicant/Licensee objects.

Appeals must be filed with the Code Enforcement Officer within thirty (30) days of the date of the decision subject to appeal. The Board of Selectmen shall hold the hearing on the appeal and render a decision within thirty (30) days of the date of the appeal, unless all parties consent to a delay.

Appeals of final determinations issued by the Board of Selectmen pursuant to this Ordinance shall be made to the County Superior Court within thirty (30) days of the date of the decision being appealed.

ARTICLE XII. Enforcement and Penalties

The operation of any Marijuana Establishment without the required license or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. The Washington Board of Selectmen or its designee shall enforce the provisions of this subsection. A violation of any provision of this subsection shall be a civil violation, and a civil penalty in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix A to this Municipal code of Ordinances shall be imposed, which shall accrue to the benefit of the Town of Washington. Each

day that a violation continues will be treated as a separate offense. The Washington Board of Selectmen or its designee may also seek injunctive relief, where appropriate, and shall be awarded attorney fees and costs for prosecution of violations of this section. The Washington Board of Selectmen may also revoke or suspend the permit after notice and hearing.

ARTICLE XIII. Severability

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

ARTICLE XVI. Other Laws

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S. Chapter 1, as may be amended. In the event of a conflict between the provisions of this Ordinance and the provisions of said Act or any other applicable state or local law or regulation, the more restrictive provision shall control.

APPENDIX A

MASTER SCHEDULE OF REVENUES, CHARGES, FEES AND FINES

Chapter 10—Licenses and Business Regulations

<p align="center">Sec. 10-26 (16) (f)</p>		<p align="center">Marijuana Cultivation Facility</p>	<p align="center">\$0.50/square foot Minimum \$600.00</p>
<p align="center">Sec. 10-26 (16) (g)</p>		<p align="center">Marijuana Products Manufacturing Facility</p> <p align="center">Marijuana Social Club</p> <p align="center">Marijuana Retail Store</p> <p align="center">Marijuana Testing Facility</p> <p align="center">Late fee will be an additional 10% of the total license fee for 1 to 30 days past the due date, and an additional 10% for every 30 days thereafter the license remains late</p>	<p align="center">\$0.50/square foot Minimum \$300</p> <p align="center">Prohibited</p> <p align="center">\$1,400 initial license \$700 renewal</p> <p align="center">N/A License not required</p>