TOWN OF WOOLWICH
Adult Use Marijuana Testing Facility ORDINANCE

SECTION 1. Purpose and Authority

The purpose of this Ordinance is to implement and set forth procedures and standards for the issuance of local licenses for an Adult Use Marijuana Testing Facility in order to protect general, safety and welfare of the residents of Woolwich by prescribing the manner in which the: Adult Use Marijuana Testing Facility, can be conducted in the Town.

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. §3001 and 28-B M.R.S. §401 as amended from time to time.

SECTION 2. 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 provided in 28-B M.R.S. §102 or as otherwise set forth in the Town of Woolwich Ordinances as may be applicable.

Adult use Marijuana: "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.

Adult use Marijuana Product: "Adult use marijuana product" means a marijuana product that is manufactured, distributed, or sold by a marijuana establishment.

Adult Use Marijuana Testing Facility: Shall mean a "testing facility" as that term is defined in 28-B M.R.S. §102(53), as may be amended. A Marijuana testing facility is licensed to develop, research and test marijuana, marijuana products and other substances.

Applicant: Shall mean an entity that has submitted an application for a license as an Adult Use Marijuana Testing Facility pursuant to this Ordinance.

Conditional License: A license issued by the State of Maine that authorizes the Licensee to seek local authorization. The conditional license does not authorize possession, transfer, cultivation, testing, manufacture or sale of marijuana or marijuana products.

Licensed Premises: Shall mean the premises specified in an application for a State or Local license pursuant to this Ordinance that are owned or in possession of the Licensee and within which the Licensee is authorized to sell, cultivate, manufacture or test adult use marijuana or adult use marijuana products in accordance with the provisions of this Ordinance and the requirements of State law and regulations.

Licensee: Shall mean a person licensed pursuant to this Ordinance.

Local Licensing Authority: Shall mean the Town of Woolwich Select Board or its designee.

Loiter: Shall mean to stand or wait around idly or without apparent purpose.

Marijuana Establishment: Shall mean an adult use marijuana cultivation facility, products manufacturing facility, testing facility or adult use marijuana retail store licensed under 28-B M.R.S. Chapter 1.

Owner: Shall mean a person whose beneficial interest in an Adult Use Marijuana Testing Facility is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of the Adult Use Marijuana Testing Facility and/or has a controlling interest in the Adult Use Marijuana Testing Facility.

Person: Shall mean a natural person or business entity.

Resident: "Resident" means a natural person who:

a. Has filed a resident individual income tax return in this State pursuant to Title 36. Part 8 in each of the last four years prior to the year in which the person files an application for licensure under this chapter.
b. Is domiciled in the State, and
c. Maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State.

State License: Shall mean any license issued by the 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.

Town: Shall mean the Town of Woolwich

SECTION 3. Effective Date and Applicability

This ordinance shall be effective upon enactment by Town Meeting ("the effective date"). Following the effective date, an Adult Use Marijuana Testing Facility may locate within the Town of Woolwich only upon receipt of a license and compliance with all other provisions of this Ordinance.

SECTION 4. Review Procedures

The review procedures described below shall be the same for initial license applications as well as renewals. In reviewing license applications, the Town of Woolwich Select Board in consultation with the Code Enforcement Officer (CEO) and any consulting Town officials may consider the approval standards under this Ordinance as well as other applicable local, state or federal laws. Completed license applications with a non-refundable license fee will be submitted to the Town Office. Applications will be reviewed and issued on a first come first serve basis.

1. The CEO shall be responsible for the initial investigating of the application to ensure compliance with the requirements of this Article and to obtain recommendations from other Town Officials as required.

2. All Adult Use Marijuana Testing Facilities will be subject to Site Plan Review for approval.

3. The Town of Woolwich Select Board shall have the authority to impose any conditions on a license that may be reasonably necessary to ensure compliance with the requirements of this Ordinance Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.

4. No Adult Use Marijuana Testing Facility may be operated until it receives a Certificate of Occupancy from the Code Enforcement Officer, which shall not be granted until the Marijuana Products Manufacturing Facility has received final license approval from the Town and the State, and all applicable legal requirements and license conditions have been met.

5. 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.

6. Any municipal official with authority to 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 notice to make any inspection reasonably necessary to ensure compliance. Every Adult Use Marijuana Testing Facility shall allow law enforcement officers to enter the premises at reasonable times for the purpose of investigating compliance with this Ordinance and 28-B M.R.S. §512.

SECTION 5. Application Submission Requirements

Each applicant for an Adult Use Marijuana Testing Facility 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:

1. A copy of the Applicant's State Conditional License and supporting documentation, as submitted to the State Licensing Authority.

2. Evidence of all State approvals or conditional approvals required to operate the Adult Use Marijuana Testing Facility, including, but not limited to, a State License as defined by this Ordinance, or a State health license.

3. 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. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.

4. A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license which allows the Town of Woolwich or its officials to obtain criminal records and other background information related to the individual.

5. Evidence of all land use approvals or conditional land use approvals required to locate, build or operate the Adult Use Marijuana Testing Facility, including, but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy. Evidence of all other local approvals or conditional approvals required to operate the marijuana establishment, including any applicable food or victualer's license.

6. A description of the premises for which the license is sought, including a plan of the premises.

If the Town of Woolwich Select Board determines that a submitted application is not complete, it 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 their request, the application will be deemed withdrawn and no further action shall occur unless a new application is submitted.

SECTION 6. License Term and Renewal

Each license issued under this Ordinance shall be valid for the term of license granted by the State License Authority ("the license year"). Any Licensee who fails to submit a renewal application shall not have authority to operate until a license is granted.

SECTION 7. Denial, Suspension or Revocation of a License

A license application for an Adult Use Marijuana Testing Facility shall be denied by the Local Licensing Authority, and an existing license may be suspended or revoked by the Select Board after notice and hearing, if the applicant, or any Owner, officer or employee of the Applicant/Licensee:

1. Fails to meet the requirements of this Ordinance.

2. Is not at least twenty-one years of age.

3. Is not a resident of the State of Maine.

4. Has had a license for a Marijuana Establishment revoked by any municipality or by the State.

5. Has not acquired all necessary final state and local approvals prior to issuance of the license.

6. Has been convicted of a criminal violation arising out of operation of a Marijuana Establishment.

7. Has provided false or misleading application in connection with the license application.

8. Is convicted of any state or federal controlled substance law or is under indictment or charged with any state or federal controlled substance law violation, while the person is an owner, manager or employee of the Adult Use Marijuana Retail Store.

SECTION 8. Approval and Operating Requirements

In order to obtain a license pursuant to this Ordinance, the Licensee shall demonstrate to the Town of Woolwich Select Board 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:

1. All Adult Use Marijuana Testing Facilities must be a registered business with the Town.

2. All Adult Use Marijuana Testing Facilities shall be Meet the residency requirements set forth under Title 28-B M.R.S. Chapter 1 and related regulations. No person shall have an ownership interest in more than (1) Marijuana Establishment license.

3. Licensed Premises shall meet all requirements set forth by the Town's Zoning Ordinance, Site Plan Review Ordinance and any and all special exception standards and are subject to special exception review & Site Plan Review.

4. Adult Use Marijuana Testing Facilities must comply with the State of Maine's Subsurface Wastewater Disposal Rules (10-144A CMR 241).

5. Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.

6. All licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Adult Use Marijuana Testing Facilities other than on the licensed Premises. They shall not be permitted to operate from a moveable, mobile or transitory location.

7. Security.

   A. The licensed Premises shall have lockable doors and windows and intrusion alarms shall meet the applicable security requirements of State law and regulation. In addition to those requirements, they shall be served by a monitored alarm system which includes automatic notification to the Sagadahoc County Sheriff's Office and fire dispatch center. All premises may at their option install a "Knox" lock box, and provide building keys to be placed in said "Knox Box".

   B. The licensed Premises shall have video surveillance capable of monitoring all entrances, along with the interior and exterior of the premises. 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. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises.

   D. Deadbolt locks shall be installed on all exterior doors and locks shall be installed on any other access points.

8. Lighting.

   The Licensed Premises shall have exterior security lights with motion sensors covering the entrances and exits of the facility.

   A. The Licensed Premises must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

   B. All Adult Use Marijuana Testing Facilities shall be illuminated by LED lights in accordance with the Maine Uniform Building and Energy Code authorized by 10 M.R.S. section 9724(1-A).

   C. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways.

   D. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot- candles at the lot line or upon abutting residential properties.

   E. Blinking lights are prohibited, unless they are necessary for safety reasons.

F. The maximum height of freestanding lighting shall be the same as the principal building or not exceed 35 feet.

G. Spot light type fixtures attached to buildings shall be prohibited unless there is a demonstrated safety or security need for them.

9. Ventilation

An odor mitigation system shall be installed and maintained that ensures no odors will be perceptible off the premises.

10. Signage

Signs all proposed signs shall conform to and be approved by the Town of Woolwich Zoning Ordinance and a permit shall be obtained from the CEO of Woolwich if applicable.

11. Loitering

The facility owner/ operator shall make adequate provisions to prevent patrons or other persons from loitering on the Premises. It shall be the Licensee's obligation to ensure that anyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a licensed Premises is ordered to leave.

12. License Fee

License fees are non-refundable and due upon receipt of the completed application. License fees are to be collected on an annual basis. The fees are as follow:

Adult Use Marijuana Testing Facility	$500.00	$250.00
Background Check Fee – Payable for each owner or designated manager	$30	$30

13. An Adult Use Marijuana Testing Facility 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.

SECTION 9. Transfer of Ownership or Change of Location

Licensees issued under this Ordinance are not transferable to a new owner. Any conveyance of the Adult Use Marijuana Testing Facility 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.

SECTION 10. Appeals

Appeals regarding the issuance or denial of a license pursuant to this Ordinance shall be made to the Sagadahoc County Superior Court within forty-five (45) days of the date of the vote on the decision being appealed, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

SECTION 11. Enforcement and Penalties

The operation of any Adult Use Marijuana Testing Facility without the required license or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. The Town of Woolwich Select Board or its designee shall enforce the provisions of this Ordinance. Failure to comply with any requirements of this Ordinance shall be construed as grounds for initiating legal proceedings to enjoin continuation of any specific activity violating the Ordinance or conditions of approval or applying a fine in accordance with the provisions of 30-A M.R.S. Section 4452. A violation of any provision of this subsection shall be a civil violation, and a civil penalty in accordance with 30-A M.R.S. Section 4452 shall be assessed. The Town of Woolwich Select Board or its designee may also seek injunctive relief, where appropriate, and shall be awarded attorney fees and costs for prosecution of violations of this Ordinance. The Town of Woolwich Select Board may also revoke or suspend the permit after notice and hearing pursuant to Section 7.

SECTION 12. 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.

SECTION 13. 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, and the requirements of the Maine Medical Use of Marijuana Act, 22 M.R.S. Chapter 558-C, 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.

SECTION 14. Indemnification

1. By accepting a license issued pursuant to this Ordinance, the Licensee and its owner(s) and officer(s) waive and release the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of any Adult Use Marijuana Testing Facility owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.

2. By accepting a license issued pursuant to this Ordinance, the Licensee and its owner(s) and officer(s), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents and insurers against liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sicknesses, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a licensed Adult Use Marijuana Testing Facility.

This ordinance was proposed for a vote by the citizens of the Town of Woolwich on August 22, 2020.

Anthony P. Blasi

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Town Clerk