**TOWN OF WOOLWICH**

DRAFT

**Adult Use Retail Marijuana 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 Adult Use Marijuana Retail Stores in order to protect general safety and welfare of the residents of Woolwich by prescribing the manner in which the adult use marijuana retail sales 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 otherwise as set forth in the Town of Woolwich Ordinances, as may be applicable.

**Adult Use Marijuana:** “Adult use marijuana” means marijuana sold by an Adult Use Marijuana Retail Store.

**Adult Use Marijuana Product:** “Adult use marijuana product” means a marijuana product that is sold by an Adult Use Marijuana Retail Store..

**Adult Use Marijuana Retail Store**: A facility licensed under 28-B M.R.S. Chapter 1 to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

**Applicant:** Shall mean a person or entity that has submitted an application for a license as an Adult Use Marijuana Retail Store 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.

**Drug Free Safe Zone:** Shall mean all public athletic fields, public parks, playgrounds and recreational facilities under the jurisdiction of the Town that are designated as “Drug Free Safe Zones” in accordance with 17-A M.R.S. 1101(23). For the purpose of this Ordinance such term shall also include any public or private elementary or secondary school and any property owned by the Town of Woolwich and made available for public use.

**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 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 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 Retail Store 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 Retail Store and/or has a controlling interest in the Adult Use Marijuana Retail Store.

**Person:** Shall mean a natural person or business entity.

**Resident:** “Resident” means a natural person who:

1. 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.
2. Is domiciled in the State, and
3. 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.

**Sale: “**Sale” or “Sell” means a transfer of marijuana or marijuana products for consideration.

**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 Retail Store may locate within the Town of Woolwich only upon receipt of a license and compliance with all other provisions of this Ordinance. No more than three licenses for Adult Use Marijuana Retail Stores shall be issued and held at any given time.

**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 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 shall be submitted to the Town Office with a non-refundable license fee.

1. The Code Enforcement Officer (CEO) shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article and to obtain recommendations from other Town Officials as required. The CEO is also responsible for routine confirmation of operating practices and procedures in compliance with this ordinance.

2. 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.

1. No Adult Use Marijuana Store may be operated until it receives a Certificate of Occupancy from the Code Enforcement Officer, which shall not be granted until the Adult Use Marijuana Store has received final license approval from the Town and the State, and all applicable legal requirements and license conditions have been met.
2. Licenses shall be approved only for the type of marijuana establishment 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.
3. Applications for Adult Use Retail Marijuana Store licenses will be processed on a first-come-first-served basis according to the date and time a completed application and fee are received at the town office. In the event that more than three completed applications for Adult Use Retail Marijuana Stores are received at the same time, licenses will be awarded by random drawing.
4. 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 Retail Store 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 Adult Use Marijuana Retail Store 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 an Adult Use Marijuana Retail Store, 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 Retail Store including but not limited to building permit, conditional or special use approval, and/or change of use permit.
6. Evidence of all other local approvals or conditional approvals required to operate the marijuana establishment, including any applicable food or victualer’s license.
7. 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**

1, 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 prior to the expiration date shall not have authority to operate until a license is granted.

2. A license for an Adult Use Retail Marijuana Store shall be relinquished if the Licensee:

A. Fails to receive its final state license;

B. Ceases active operations for a period of six months or more for any reason; Fails to comply with any order

of court regarding compliance with this Ordinance or State law within 60 days of the date of such order; or

C. Voluntarily relinquishes its license.

**SECTION 7. Denial, Suspension or Revocation of a License**

A license application for an Adult Use Marijuana Retail Store 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, officer 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 Retail Stores must be a registered business with the Town.
2. All Adult Use Marijuana Retail Stores shall 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 Planning 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 Retail Marijuana Stores 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 Retail Stores on other than onthe licensed Premises. They shall not be permitted to operate from a moveable, mobile or transitory location.
7. Security.  
   * + - 1. The licensed Premises shall have lockable doors and windows and intrusion alarms which shall meet the applicable security requirements of State law and regulation. In addition to those requirements, theyshall 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”.
         2. 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.
         3. 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.
         4. Deadbolt locks on all exterior doors and locks on any other access points.

1. Lighting.
2. The Licensed Premises shall have exterior security lights with motion sensors covering the entrances and exits of the facility.
3. The Licensed Premises must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.
4. All Adult Use Marijuana Retail Stores 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).
5. 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.
6. 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.
7. Blinking lights are prohibited, unless they are necessary for safety reasons.
8. The maximum height of freestanding lighting shall be the same as the principal building or not exceed 35 feet.
9. Spot light type fixtures attached to buildings shall be prohibited unless there is a demonstrated safety or security need for them.
10. Ventilation

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

1. Signage  
   1. All proposed signs shall conform to and be approved with Town of Woolwich Sign Ordinance.
   2. 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:

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| --- | --- | --- |
| Adult Use Marijuana Retail Store (3 only) | $1000.00 | $250.00 |
| Background Check Fee – Payable for each owner or designated manager | $30 | $30 |

1. An Adult Use Marijuana Retail Storeshall 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.
2. Adult Use Marijuana as regulated by this ordinance and State law must be sold face-to-face within the Licensed Premises. Adult Use Marijuana is prohibited from being sold via vending machine or by delivery, and the retail salesclerk must verify age by photo identification.

**SECTION 9. Transfer of Ownership or Change of Location**

Licenses issued under this Ordinance are not transferable to a new owner. Any conveyance of the licensed Adult Use Marijuana Retail Store 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. The sale or relocation of an Adult Use Retail Marijuana Store shall cause the existing license to be forfeited. That license shall be made available to the general public and shall be issued according to the process set forth in Section 6(2).

**SECTION 10. Appeals**

Appeals regarding the issuance or denial of a license 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 an Adult Use Marijuana Retail Store 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. 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 Retail Store 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 Retail Store.

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