

TOWN OF VASSALBORO

MARIJUANA BUSINESS ORDINANCE

CERTIFIED BY _____
TOWN CLERK

ADOPTED
JUNE 8, 2021

JUNE 6, 2022	AMENDMENT DATES
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**TOWN OF VASSALBORO
MARIJUANA BUSINESS ORDINANCE**

A. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2429-D and 28-B M.R.S. § 401. The purpose of this Ordinance is to prohibit Marijuana Businesses, as defined, in the Town of Vassalboro, unless they were in lawful operation or had received site plan or building permit approval for the use prior to the Effective Date of this Ordinance. This Ordinance is enacted to protect public health, safety and welfare of the people of Vassalboro.

B. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. Any term not defined herein shall be defined as specified in 22 M.R.S. § 2422 or 28-B M.R.S. § 102, as applicable.

Adult Use Marijuana Retail Store shall mean a facility licensed under Title 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 who has submitted an application for licensure as a Marijuana Business pursuant to this Ordinance.

Caregiver Retail Store shall mean a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Medical Marijuana Dispensary shall mean an entity registered under 22 M.R.S. § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

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.

Licensing Authority shall mean the Board of Selectmen for initial licenses, and the Town Manager for renewal licenses.

Marijuana Business shall include a Marijuana Cultivation Facility, Marijuana Products Manufacturing Facility, Adult Use Marijuana Retail Store, Caregiver Retail Store, Marijuana Testing Facility, or Medical Marijuana Dispensary.

Marijuana Cultivation Facility shall mean a facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package marijuana; to sell marijuana to products manufacturing facilities, stores and other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores. It shall not include a facility used for cultivation of marijuana for personal use pursuant to 28-B M.R.S. § 1502, a facility used for cultivation of medical marijuana by a Qualifying Patient pursuant to 22 M.R.S. § 2423-A or a building or lot containing less than 1,000 square feet of area in the aggregate that is used for cultivation of medical marijuana by one or more Registered Caregivers pursuant to 22 M.R.S. § 2423-A. A Marijuana Cultivation Facility license shall be required for the owner or operator of the facility as well as any person who, by lease, partial ownership or other arrangement with the owner/operator, cultivates any amount of marijuana within the Marijuana Cultivation Facility.

Marijuana Manufacturing Facility shall mean (1) a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in medical marijuana extraction pursuant to 22 M.R.S. § 2423-F; or (2) a facility licensed under 28-B M.R.S. § 201(3) to purchase adult use marijuana from a cultivation facility or another products manufacturing facility, to manufacture, label and package marijuana and marijuana products, and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities.

Marijuana Testing Facility shall mean a public or private laboratory that is authorized and accredited in accordance with state law for the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

Owner shall mean a person whose beneficial interest in a Marijuana Business 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 Marijuana Business and/or has a controlling interest in the Marijuana Business.

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 Business is to conduct its business.

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 of Marijuana Businesses.

C. Prohibition of Marijuana Businesses

Marijuana Businesses shall be prohibited in the Town of Vassalboro unless they were in lawful operation or had received site plan or building permit approval for the use prior to the Effective Date of this Ordinance.

D. License Requirement

Effective upon enactment of this Ordinance, any Marijuana Business permitted in the Town by virtue of the fact that it was in operation or held municipal approval prior to the Effective Date shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this Ordinance. An application for licensure of an existing Marijuana Business shall be submitted to the Town within 60 days following the adoption of this Ordinance. License applications shall be submitted and approved prior to the establishment of any new tenancy, ownership, or occupancy of an existing Marijuana Business permitted by this Section.

E. Licensing Procedures

- (1) All license applications shall be submitted to the Town Manager 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.
- (2) Prior to action on a license application, the Town Manager shall give public notice of the application by publication in a newspaper of general circulation in the Town of Vassalboro at least seven (7) days prior to action.
- (3) The Town Manager or designee 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.
- (4) No license shall be granted until the Code Enforcement Officer, Fire Chief and Police Chief have each 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 also ensure that Fire Marshal review, where appropriate, is made and a report presented to the Town Manager. The Town Manager 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.
- (5) The Licensing Authority may include any conditions of approval recommended by reviewing officials, as well as any other reasonable conditions deemed in their discretion to be

warranted, on the issued license. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.

(6) Any Town official with authority to make recommendations under or enforce this or other municipal ordinances or state laws regarding Marijuana Businesses shall have authority to enter the premises of an Applicant or Licensee without notice to make any inspection reasonably necessary to ensure compliance.

(7) An Applicant wishing to appeal a denial or issuance of a renewal license by the Town Manager may do so by filing an appeal with the Board of Selectmen. The Board of Selectmen shall consider the permit on a *de novo* basis and shall have authority to grant or deny the license or to add or remove conditions of approval in its discretion. An applicant wishing to appeal the Board of Selectmen's denial or issuance of a license may do so by filing an appeal in Superior Court.

F. Application Submission Requirements

Each applicant for a Marijuana Business license shall complete and file an application on the form provided by the Town Manager, together with an applicable license fee as set by order of the Board of Selectmen which may be adopted and amended from time to time without need for town meeting approval. If two or more Marijuana Businesses are to be located on a single Premises, the Applicant shall pay the application fee for each type of business. If the Town Manager 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 Town Manager's request, the application may be denied. Failure of the Town Manager to provide notice under this section does not relieve an Applicant from its duty to submit a complete application.

The following supporting materials shall be provided with the application:

- (1) Evidence that the Marijuana Business was in operation or held municipal site plan or building permit approval for the use prior to the Effective Date of this Ordinance.
- (2) A copy of the Applicant's State License application and supporting documentation, as submitted to the State Licensing Authority.
- (3) Evidence of all State approvals or conditional approvals required to operate the Marijuana Business, including, but not limited to, a State License as defined by this Ordinance, caregiver registration, or a State health license. If conditional approval has not yet been received by the State at the time of application, the Town License shall remain pending until evidence of conditional approval is received.

- (4) If not included in the Applicant's State License application, attested copies 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 Business.
- (5) 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.
- (6) A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license allowing the Town of Vassalboro or its officials to obtain criminal records and other background information related to the individual.
- (7) Evidence of all land use approvals or conditional land use approvals required to operate the Marijuana Business, including, but not limited to building permit, site plan approval or certificate of occupancy. A license under this Ordinance does not take the place of any permit or approval required under the Site Review Ordinance, Building Permit Ordinance, or any other applicable local ordinance.
- (8) Evidence of all other state or local approvals or conditional approvals required to operate the Marijuana Business.
- (9) A description of the premises for which the license is sought, including a sketch plan showing the location of the Premises on the property and a floor plan of any building(s).
- (10) Certification from a licensed Master Electrician indicating the electrical system of the Premises is adequate for the use being proposed. That use shall be clearly outlined in detail so that the Master Electrician's certification is easy to understand.

G. License Term and Renewal

Each license issued under this Ordinance shall be valid for a period expiring on December 31 of the year following the year of issuance. 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 not have authority to operate the Marijuana Business after the expiration date and until a license is granted. A late fee shall apply as set by the Board of Selectmen.

H. Special Requirements for Multiple Caregiver Cultivation Facilities

Multiple Caregiver facilities. Where the owner/operator of a Marijuana Cultivation Facility will sell, lease or license space within the facility to multiple individuals, both the owner/operator of the Marijuana Cultivation Facility and each individual maintaining growing space within the Marijuana Cultivation Facility shall be required to obtain licensure as a Marijuana Cultivation Facility pursuant to this Ordinance. The owner/operator of the Marijuana Cultivation Facility

and any individual maintaining growing space shall be jointly and severally responsible for ensuring the Facility's ongoing compliance with the standards of this Ordinance.

I. Denial, Suspension or Revocation of a License

In reviewing license applications, the Licensing Authority and any consulting Town official 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. The Licensing Authority may attach to any license conditions as necessary to address previous violations or documented complaints, or to ensure compliance with the requirements of this Ordinance.

A license application for a Marijuana Business 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, Licensee, or any Owner of the applicant or Licensee:

- i. Fails to meet the requirements of this Ordinance or of any condition attached to the license.
- ii. Is not at least twenty-one years of age.
- iii. Has had a license for a Marijuana Business revoked by the Town or by the State.
- iv. Has a record of violations and/or documented complaints demonstrating lack of ability to responsibly and lawfully operate the Marijuana Business.
- 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 Business.
- vii. Has provided false or misleading application in connection with the license application.

J. Approval and Operating Requirements

In order to obtain a license pursuant to this Ordinance, the Licensee shall demonstrate to the Licensing Authority and all reviewing officials that the following requirements will be met. The Licensee shall comply with each of these requirements during the term of the license:

- (1) Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.

(2) All licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Businesses in other than the licensed Premises, such as at farmer's markets, farm stands or kiosks.

(3) Location. Marijuana Businesses shall not locate within 1,000 feet of a public or private school, state-licensed daycare of any size, or occupied residence not owned or controlled by the Applicant or owner of the Premises, measured from the exterior of the building housing the Marijuana Business to the property line of the protected use. Any Marijuana Business which was in operation or received site plan or building permit approval prior to the Effective Date of this Ordinance and which does not comply with this location requirement shall not be permitted to expand its use in footprint, volume (e.g. amount of canopy), traffic or any other measurable way beyond levels in existence as of the Effective Date.

(3) Safety and Security.

(a) The licensed Premises shall have lockable doors and windows and shall be served by an alarm system which includes automatic notification to the Kennebec County Sheriff's office.

(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).

(4) Ventilation

(a) The licensed Premises shall comply with all odor and air pollution standards established by state law or town ordinance.

(b) All Marijuana Businesses shall have an odor mitigation system installed that is sufficient to ensure that no odor of marijuana is detectible beyond the area controlled by the business, whether that be a lease or owned area that is a portion or all of a recorded parcel of land. The Code Enforcement Officer may request certification by a Maine licensed engineer that the odor control system is sufficient for these purposes.

(5) Loitering. The Licensee and all agents or employees 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.

- (6) Waste. The Licensed Premises shall provide adequate disposal of solid and liquid waste to prevent diversion of marijuana or marijuana products, and to prevent contamination of land, water and sewer.
- (7) A Marijuana Business 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 Businesses that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

K. Forfeiture of License

A Marijuana Business License and any vested rights to continue operation of a Marijuana Business shall be forfeited if the Marijuana Business:

- (1) Fails to obtain a new license prior to expiration of an existing license; or
- (2) Does not make an active use of the licensed Marijuana Business for a period exceeding six (6) consecutive months, except that the Licensing Authority may, upon written request from the Licensee, allow for a suspension of use of up to one year if the suspension in use is caused by damage to the Licensed Premises, renovation, repair, active attempts to sell the Licensed Premises as a turnkey Marijuana Business, or other bona fide circumstances out of the Licensee's control.

L. Change of Business Type; Transfer of Ownership; Change of Location

A Marijuana Business which is permitted by this Ordinance by virtue of its operation or receipt of site plan or building permit approval prior to the Effective Date shall not be permitted to change to any other type of Marijuana Business. Any change in the majority ownership of a Marijuana Business 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.

M. Effective Date

Notwithstanding the provisions of Title 1 M.R.S. § 302 the Effective Date of this Ordinance shall be February 18, 2021, the date on which it was proposed by the Board of Selectmen. Only Marijuana Businesses which were in lawful existence and/or held final site plan or building permit approval for the use as of the Effective Date shall be entitled to seek licensure under this Ordinance or to operate within the Town of Vassalboro.

N. 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.

O. Other Laws

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28 M.R.S. Ch. 1, and the Medical Use of Marijuana Act, 22 M.R.S. Ch. 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.

P. Enforcement and Violations

This Ordinance shall be enforced by the Code Enforcement Officer. Violations of any provision of this Ordinance shall be prosecuted in accordance with 30-A M.R.S.A. § 4452, with penalties of \$100 to \$2,500 to be assessed per day according to the severity of the violation. The Town shall also be awarded its reasonable attorney fees and costs related to any prosecution. In addition, the violator shall be subject to suspension or revocation of its license, as well as injunctive relief as appropriate.

Q. Repeal of Prior Ordinance

Upon enactment of this Ordinance, the Town of Vassalboro Ordinance Prohibiting Retail Marijuana Establishments shall automatically be repealed.

APPENDIX A – Adopted by Order of the Board of Selectmen Approved _____.

MARIJUANA BUSINESS ORDINANCE

SCHEDULE OF REVENUES, CHARGES, FEES AND FINES

Marijuana Cultivation Facility	\$ 1500.00 + Public Hearing Fee
Marijuana Products Manufacturing Facility	\$ 1500.00 + Public Hearing Fee
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	