

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on October 5th, 2021 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 18, Article XII, Retail Marijuana Establishments, adding Sections 18-604 through 18-608 by accepting the underscored language as follows:

ARTICLE XII. – Adult Use Marijuana Business Licensing

Sec. 18-604 – Purpose

The purpose of this Article is to provide for and regulate the issuance of Local Licenses for Adult Use Marijuana Business as defined in this Article and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended.

Sec. 18-605 – Authority

This article is adopted pursuant to the authority granted by 28-B M.R.S.A. § 401 et seq., as may be amended.

Sec. 18-606 – Definitions

As used in this article the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter.

Adult Use Marijuana: marijuana cultivated, manufactured, distributed or sold by an adult use marijuana business.

Adult Use Marijuana Business: Adult Use Marijuana Stores regulated under this Ordinance.

Adult Use Marijuana Cultivation Facility: a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to Adult Use Products Manufacturing Facilities, to Adult Use Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Adult Use Marijuana Stores.

Adult Use Marijuana Nursery Cultivation Facility: a facility licensed under this ordinance to cultivate not more than 1,000 SF of plant canopy pursuant to 28-B M.R.S. §501.

Adult Use Marijuana Product: a marijuana product that is manufactured, distributed or sold by an adult use marijuana business.

Adult Use Marijuana Store: a facility licensed under this ordinance to purchase adult use marijuana, immature marijuana plants and seedlings from an Adult Use Cultivation Facility, to purchase adult use marijuana and adult use marijuana products from an Adult Use Products

Manufacturing Facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult Use Marijuana Products Manufacturing Facility: a facility licensed under this ordinance to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Applicant: a person or business entity that has submitted an application for licensure as an Adult Use Marijuana Business pursuant to this Article.

Business Entity: a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

Cultivation or Cultivate: the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

Edible Marijuana Product: a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate. "Edible Marijuana Product" does not include an edible product containing "hemp" as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D.

Harvested Marijuana: the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

Immature marijuana plant: a marijuana plant that is not a mature marijuana plant or a seedling.

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

Licensee: a person or business entity licensed pursuant to this chapter and article.

Local License: any license required by and issued under the provisions of this chapter and article.

Local Licensing Authority: the License Administrator or the Town Council, as further specified in the provisions of this chapter and article.

Manufacture or Manufacturing: the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana: the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D or a marijuana product.

Marijuana Product: a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana Product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana Product" does not include marijuana concentrate or a product containing hemp as defined in Title 7 M.R.S.A., section 2231, subsection 1-A, paragraph D.

Owner: a person whose beneficial interest in an Adult Use 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 a Adult Use Marijuana Business and has a controlling interest in an Adult Use Marijuana Business.

Person: 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.

Plant Canopy: the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

State License: any license, registration or certification issued by the State of Maine.

Testing or test: the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

Sec. 18-607 – Adult Use Marijuana Business Allowed

Adult Use Marijuana Business shall be allowed, subject to the requirements of this Chapter and Article and Chapter 78 of the Old Orchard Beach Code of Ordinances.

Sec. 18-608 – Limitations in Licenses

No Adult Use Marijuana Business shall operate in the Town of Old Orchard Beach without obtaining a business license pursuant to this article. No more than the specified quantities of licenses shall be issued.

Adult Use Marijuana Store (General Business 1): 1 (one) Total

Sec. 18-609 – License Application Contents

All license applications for Adult Use Marijuana Business licenses under this article shall complete and file an application on the form provided by the license administrator. All applicants must be qualified according to the provisions of this article and shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this article. Each applicant shall be considered a licensee if a license is granted.

The completed application for an Adult Use Marijuana Business license shall contain, at a minimum, the following information and shall be accompanied by the specified documentation:

(1) Name of Applicant.

- a) If the applicant is an individual: The individual shall state their legal name and any aliases and submit proof that they are at least twenty-one (21) years of age.
- b) If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.
- c) If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.
- d) If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.
- e) If the applicant intends to operate the Adult Use Marijuana Business under a name other than that of the applicant, they must state the Adult Use Marijuana Business name and submit the required registration documents.

(2) The applicant's mailing address and residential address.

(3) Recent passport-style photograph(s) of the applicant(s).

(4) The applicant's driver's license.

(5) A sketch showing the configuration of the subject premises, including building footprint, plant canopy square footage calculations, interior layout with floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.

(6) Evidence of all State approvals or conditional approvals required to operate the Adult Use Marijuana Business, including, but not limited to a State License as defined in this article.

(7) The location of the proposed Adult Use Marijuana Business, including a legal description of the property, street address, and telephone number. The applicant must also demonstrate that the property meets the zoning requirements for the proposed use.

(8) If the applicant has had a previous license under this article or other similar Marijuana Business, as licensed under 28-B M.R.S.A. Chapter 1, in another municipality in Maine, in the Town of Old Orchard Beach, or in another state denied, suspended or revoked, they must list the name and location of the for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this article, whose license has previously been denied, suspended or

revoked, listing the name and location of the Marijuana Establishment for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.

(9) If the applicant holds any other permits/licenses under this article or other similar Marijuana Business, as licensed under 28-B M.R.S.A. Chapter 1, from another municipality in Maine, the Town of Old Orchard Beach, or State the applicant shall provide the names and locations of such other permitted/licensed businesses, including the current status of the license or permit and whether the license or permit has been revoked.

(10) Completion of applicable release forms, supplied by the Town, allowing the Town to perform background checks of each applicant.

(11) The type of Adult Use Marijuana Business for which the applicant is seeking a license and a general description of the business including hours of operation.

(12) Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Adult Use Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

(13) A copy of a map depicting all property boundary lines and land uses on each property within one thousand (1,000) feet of the Adult Use Marijuana Business property boundary lines.

(14) A business plan which shall include responses to the following:

- a) Owner qualifications.
- b) A budget for construction, operations, and maintenance.
- c) Hours of operation and opening and closing procedures.
- d) Daily operations per license category, including, but not limited to the following:
 - i) For Stores: customer check in procedures; location for receiving deliveries; estimate of number of customers per day; products to be sold; parking availability and location.
 - ii) For Manufacturing: all products manufactured; quality control procedures; inventory control procedures; sanitation procedures.
 - iii) For Testing: sampling standards operating procedures; procedures for transporting marijuana samples; quality control procedures; storage location

(15) A neighborhood compatibility plan which shall include responses to the following:

- a) How the Business will proactively address and respond to complaints.
- b) How the Business will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.

(16) A safety plan which shall include responses to the following:

- a) The safety plan shall consider all possible fire, medical, and hazardous situations.
- b) Accident and incident reporting procedures.
- c) Evacuation routes.
- d) The location of fire extinguishers and other fire suppression equipment.
- e) Procedures and training for all fire and medical emergencies.

(17) A community relations plan which shall describe public outreach and education programs such as youth drug addiction and other actions that directly benefit the community.

Sec. 18-610 – New License Application Procedure

All applicants submitting new Adult Use Marijuana Business license applications shall follow the following license application procedure.

(1) Part 1

- a) Adult Use Marijuana Business licenses applications shall be administered on a first come, first serve basis. The completed license application package shall include all of the information required by Sec. 18-609 of this article, as well as the required fee.
- b) Completed license applications and the Adult Use Marijuana Store License Application Fee and any additional fees the Town requires to conduct review of the application shall be submitted in person during regular business hours to the license administrator only during the posted application acceptance period as described in Sec. 18-612 of this article.
- c) Upon closing of the application acceptance period, the license administrator will review the license applications for the purpose of determination of completeness. The license administrator shall consult with Town Staff for the purpose of assisting with the determination of completeness. For the purposes of this article, a determination of completeness means a completed license application and all materials are provided in accordance with Sec. 18-609 of this article, as well as the required fee. During the determination of completeness, the Town Manager shall authorize background checks on all applicants. Applicants will not be allowed to submit new information or resubmit incomplete information during or after determination of completeness review. A determination of completeness is not approval of a license application.
- d) Within-thirty (30) calendar days after closing of the application acceptance period, the license administrator will conclude the determination of completeness review and notify all applicants of the results. Selected applicants shall proceed with the conditional use permit process. Selection of a license application is not approval of a license application, it only provides the applicant the right to apply for a conditional use permit.
- e) Selected applicants shall submit a complete conditional use permit application to the Planning Board within sixty (60) days of the date of license application selection notification. Failure to submit a complete conditional use permit application within the time frame stated above shall disqualify an applicant from Parts 2 and 3 of this section.

(2) Part 2

Only those applicants who are selected in Part 1; have secured conditional use permit approval from the Planning Board; and supply evidence of all State approvals required to operate a Adult Use Marijuana Business have the Town's approval to continue with Part 2 of the license application procedure.

- a) The applicant shall submit the following to the Town Manager:
 - (i) Copy of the completed license application and license application contents identified in Sec. 18-609 of this article
 - (ii) Copy of Conditional Use Permit Findings of Fact;

- (iii) Copy of Conditional Use Permit Application submission to the Planning Board;
 - (iv) Attested statement certifying the documentation in 18-610 (1) remains the unchanged;
 - (v) Proof and copy of all State license final approvals allowing the Adult Use Marijuana Business; and
 - (vi) Any other information the Town Manager feels is necessary to assist the Town Council with review and final decision.
 - (vii) Full Payment of the Adult Use Marijuana Store License Fee
- b) Upon receipt of the above, the Town Manager will place on the Town Council agenda with the request of scheduling a public hearing.
- c) The Town Manager shall authorize background checks on all applicants for Adult Use Marijuana Business licenses before any license application is placed on the Town Council agenda.
- d) The Council will conduct a public hearing for each Adult Use Marijuana Business license application. The applicant shall provide notice of the public hearing location, date, and time to all property owners within one thousand (1,000) feet of the premise's property boundary lines. Notice shall be mailed by the applicant at least ten (10) days before the public hearing is held. Proof of mailing shall be submitted to the Town Manager before the date of the public hearing.
- e) Upon completion of the public hearing, the Town Council will consider public comments, applicant submissions, staff evaluations, State records, and any other documentation the Council determines is necessary in order to conduct a final review.

(3) Part 3

At a regularly scheduled meeting of the Town Council following the public hearing, the Council will make a final decision on Adult Use Marijuana Business license applications. Only those applicants who successfully meet 18-610 (1) and (2) and other applicable State laws, this article and Old Orchard Beach ordinances and adopted codes will be eligible to receive an Adult Use Marijuana Business license. The Town Council shall apply the review criteria set forth in Section 18-35 of this Chapter in making its determination on the license application.

The Town Council shall have the authority to impose any conditions on a license that are reasonably necessary to ensure compliance with the requirements of this article or to address concerns about operations. Failure of any licensee to comply with such conditions shall be considered a violation of the chapter and article.

Marijuana Business Licenses issued under this section shall automatically expire if the licensee does not commence operation of the marijuana store within one hundred and eighty (180) days from the date of license issuance. An application for the renewal of an expired license under this subsection shall be treated as a new license application.

Sec. 18-611 – Renewal License Application Procedure

(1) Each license issued shall be effective for one year from the date of Council approval.

(2) Renewal license applications shall be submitted to the license administrator a minimum of forty-five (45) days before the date of expiration of the annual local license. Any licensee who

fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted.

(3) Renewal license applicants shall be subject to the procedure identified in Sec. 18-610 (2) and (3) of this article. Applicants shall be subject to updated background checks and inspections of the premises.

(4) The Town Manager shall consult with Town Staff before any license application is placed on the Town Council agenda. The purpose of this consultation is to allow Town Staff an opportunity to provide feedback to the Town Council.

Sec. 18-612 – Application Acceptance Period

(1) The license administrator shall provide notice within a local newspaper of general circulation and on the Town of Old Orchard Beach website announcing when the Town will accept new Adult Use Marijuana Business license applications. The notice shall include dates during which new license applications will be accepted and contact information for questions. The license administrator will accept new Adult Use Marijuana Business license applications up to ten (10) business days during the posted licenses application period.

(2) If additional licenses become available, the license administrator will provide notice within a local newspaper of general circulation and post on the Town of Old Orchard Beach website. The notice shall include dates during which the applications will be accepted and contact information for questions.

Sec. 18-613 – Expired License

An application for the renewal of an expired license shall be treated as a new license application. Any licensee who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted.

Sec. 18-614 – Background Checks

The Town Manager shall authorize background checks of each license applicant and renewal license applicant. If the applicant is a business entity, every officer, director, manager and general partner of the business entity is required to submit to a criminal history check. Failure to submit required release for a background check is grounds for denial of a license. The applicant shall be billed for the cost of the background check.

Sec. 18-615 – Right of Access/Inspections

Every Adult Use Marijuana Business shall allow law enforcement officers, fire department officials and code enforcement officer entry onto the premises at reasonable times for the purpose of checking compliance with all applicable State laws, this article and other Old Orchard Beach ordinances and adopted codes.

Sec. 18-616 – Fees

Adult Use Marijuana Business License Application and Store License Fees. Adult Use Marijuana Business License Application and Store License Fees are set forth as specified in the schedule of license, permit and application fees established by the town council. All applicants are responsible for the Town's expenses associated with the review of an application, including

the cost of any third-party review if necessary. The Store License Fee shall be paid by Applicants selected for Part 2 of the New License Application Procedure and for store license renewal.

Sec. 18-617 – Transfer of Ownership and Change of Location

Licenses issued under this article are not transferable to a new owner. Any change in ownership or change in the officers of an owner 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 local license for that location.

Sec. 18-618 – Appeals

Any appeal of a decision of the Town Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

Sec. 18-619 – Violations and Penalties

The operation of any Adult Use Marijuana Business without the required local license or in violation of the requirements of this chapter and article shall be a violation of this chapter and article. Violations shall be subject to fines as set forth in Sec. 18-28 of this chapter.

Sec. 18-620 – Severability

The provisions of this article 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.

Sec. 18-621 – Other Laws

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

Sec. 18-622 – Effective Date

The effective date of this article shall be the date of adoption by the Town Council.

Per Order of the Municipal Officers this 21st day of September, 2021.

A True Copy
Attest:

s/Kim McLaughlin
Kim M. McLaughlin, Town Clerk