

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 December 6<sup>th</sup>, 2022 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 78 Adult Use Marijuana Business, Conditional Use Ordinance Ch. 78, Art. VII, Div. 2- Conditions, Sec. 78-1279 (5) b, (5) h, and re-letter (5), and Ch 18, Article XII, Sections 18-604 -622 Amendments – Adult Use Marijuana Business Licensing, by removing the strikethrough language and adding the underscored language as follows:

**AMENDMENTS TO CHAPTER 78, ARTICLE VII, DIV. 2 – CONDITIONS, SEC. 78-1279 (5) b,  
(5) h**

**ADULT USE MARIJUANA BUSINESS, CONDITIONAL USE**

**Draft 2 (October 2022)**

Amendments: deletions are ~~struck~~, additions are **bold underline**

**Sec. 78-1279 – Adult Use Marijuana Business**

(1) Purpose

The purpose of this section is to implement the Marijuana Legalization Act, 28-B M.R.S. §101 et seq. and to protect the public health, safety, and welfare of the residents of and visitors to the Town of Old Orchard Beach by prescribing the manner in which Marijuana Business can be conducted in the Town.

In addition, this section provides for the protection of public health and safety through reasonable controls on marijuana sales, cultivation, manufacturing, testing, and distribution operations as they relate to air quality, neighborhood and customer safety, security for these operations and their personnel, and other health and safety concerns.

(2) Applicability

The regulations in this Ordinance shall apply to any persons or entities operating or interested in operating an Adult Use Marijuana Business in Old Orchard Beach.

(3) Definitions exclusive to Adult Use Marijuana Business

As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

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

Adult Use Marijuana Business: Adult Use Marijuana Cultivation Facility, Adult Use Marijuana Products Manufacturing Facility, Adult Use Marijuana Testing Facility, or Adult Use Marijuana Store regulated under this Ordinance.

Adult Use Marijuana Cultivation Facility: a facility licensed 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 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 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 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 conditional use approval for 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 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 requirements of State law and regulations and Old Orchard Beach Code of Ordinances.

Local License: any license required by and issued under the provisions of Chapter 18 of the Old Orchard Beach Code of Ordinances.

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 an 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.

#### (4) Permitting and Licensing

- a) An Adult Use Marijuana Business shall be operated in Old Orchard Beach in compliance with this ordinance and other applicable local, state and federal laws, regulations and codes.
- b) A person or business entity seeking to operate an Adult Use Marijuana Business shall not submit a conditional use application until their Adult Use Marijuana Business License is selected in accordance with Old Orchard Beach Code of Ordinances, Ch. 18, Sec. 18-610 (1).
- c) Pursuant to 28-B M.R.S.A. § 402, a person or business entity seeking to operate an Adult Use Marijuana Business may not submit a conditional use application or business license application unless the person or business entity has been issued a conditional license by the State of Maine to operate the Adult Use Marijuana Business.

#### (5) Performance Standards for Adult Use Marijuana Business

An Adult Use Marijuana Business requires approval from the Planning Board prior to the issuance of any business license, building permit or certificate of occupancy. The following performance standards are to be used by the Planning Board in reviewing conditional use applications and compliance with the same shall serve as requirements for approval of such conditional use applications.

##### a) Separation from sensitive uses.

- (1) No Adult Use Marijuana Business shall be sited within one thousand (1,000) feet of the lot lines of a school, and
- (2) No Adult Use Marijuana Business shall be sited within one thousand (1,000) feet of the lot lines of a child care facility, community center, higher educational facility, public outdoor recreational area, church, synagogue or other house of religious worship, public library, amusement parks, and drug and alcohol rehabilitation center.

The distance cited in this section shall be measured between the lot line of the proposed site for the Adult Use Marijuana Business and the lot line of the site of the use listed in (1) or (2) above at their closest points. For purposes of this measurement, if an Adult Use Marijuana Business is to be located on a site that is leased from an unrelated third party, such Business lot line shall be determined as follows:

- (i) If the Business leases an entire parcel of land, the lot line of such Business shall be the lot line of the parcel;
- (ii) If the Business leases a free-standing building or buildings which is or are part of a larger parcel containing other free-standing buildings, the lot line of such Business shall be the outer wall of the building(s) being leased by the Business; and

For purposes of this section, the term “school” means a “public school” as that term is defined in 20-A M.R.S. § 1(24), as may be amended; a “private school” as that term is defined in 20-A M.R.S. § 1(22), as may be amended; and/or a “public preschool program” as that term is defined in 20-A M.R.S. § 1(23-A), as may be amended.

For purposes of this section, the term “child care facility” means a “child care facility” as that term is defined in 22 M.R.S. § 8301-A(1-A) (B), as may be amended, and/or a “family child care provider” as that term is defined in 22 M.R.S. § 8301-A(1-A) (C), as may be amended.

For purposes of this section, the term “community center” means a place where people from the community can meet for social, educational, and recreational purposes that is owned and operated by a municipality or a non-profit corporation.

For purposes of this section, the term “higher education facility” means a community college, college or university authorized by the State of Maine to award associate, baccalaureate or higher degrees.

For purposes of this section, the term “public outdoor recreational area” means a place used for public recreation, regardless of its size, owned by a governmental agency.

For purposes of this section, the term “amusement parks” means the property located within the Amusement Overlay District as shown on the Town of Old Orchard Beach General Zoning Map.

Once all required licenses, permits and approvals are issued, the Town will not preclude a sensitive use listed in (1) or (2) above from opening at a location within the applicable buffer zones. An Adult Use Marijuana Business may continue to operate in its present location as a pre-existing use if a sensitive use as listed in (1) or (2) above later locates within the applicable buffer zone; however,

the Adult Use Marijuana Business does so at its own risk, and Town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a Adult Use Marijuana Business near a sensitive use listed in (1) or (2) above.

**b) 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.**

**b c)** Days and hours of operation. Adult Use Marijuana Businesses are limited to the following days of the week and hours of operation: Monday – Sunday, 9:00 AM – 9:00 PM.

**c d)** Proximity limit. No Adult Use Marijuana Business shall be sited within one thousand (1,000) feet of another Adult Use Marijuana Business, medical marijuana registered dispensary or medical marijuana production facility as measured from the main entrance of one to the main entrance of the other by the ordinary course of travel.

**d e)** Multiple occupancy buildings. No Adult Use Marijuana Business may be located within or attached to a building that provides space for any other residential or nonresidential occupancies.

**e f)** Area of activities.

(1) All activities of an Adult Use Marijuana Business, including, but not limited to cultivating, growing, manufacturing, processing, displaying, selling, and storage, shall be conducted indoors. An Adult Use Marijuana Business is not permitted to conduct outdoor sales or services of any kind.

(2) An Adult Use Marijuana Business must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer pays for and picks up such orders in the store on the day the order is made.

**f g)** An Adult Use Marijuana Business shall have a minimum of one off-street parking space per 250 square feet of floor area and one off-street parking space for each on-shift employee. Applicant shall provide documentation representing the legal right to use each parking space throughout the life of the Adult Use Marijuana Business.

**h) The proposed adult use marijuana business will not cause or negatively contribute to existing highway or public road congestion or unsafe conditions with respect to use of highways or public roads existing or proposed. Applicant shall submit a traffic impact analysis and assessment prepared by a Maine Licensed Traffic Engineer.**

~~g~~ **i**) Submission of a waste management plan which shall include, but is not limited to compliance with Old Orchard Beach Code of Ordinances Chapter 46 (solid waste).

~~h~~ **j**) Drive-through and home delivery prohibited. Adult Use Marijuana Stores are prohibited from having drive-through pick-up facilities and home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within an Adult Use Marijuana Store.

~~i~~ **k**) Signs. Notwithstanding the sign requirements of the zoning district where the Adult Use Marijuana Business is located and Chapter 78, Article VIII, Division 5 of Old Orchard Beach Code of Ordinances, and 28-B M.R.S. §702, all signs used by and all marketing and advertising conducted by or on behalf of an Adult Use Marijuana Business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal to persons under 21 years of age. The signs, marketing, or advertising are prohibited from making any health or physical benefit claims.

~~j~~ **l**) Sale of edible products. No food products shall be sold, prepared, produced or assembled by an Adult Use Marijuana Business except in compliance with all operating and other requirements of the State and Old Orchard Beach laws and regulations. Any goods containing marijuana for human consumption shall be stored in a secure area.

~~k~~ **m**) Odor management. For all Adult Use Marijuana Businesses, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the Business. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the conditional use application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:

(1) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.

(2) A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.

(3) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.

(i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.

- (ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

An Adult Use Marijuana Business must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein and to mitigate noxious gases or other fumes used or created as part of the production. While the Town does not mandate any particular equipment specifications with regard to filtration, an Adult Use Marijuana Business is strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

**l n)** Sufficient means of preventing smoke, debris, dust, fluids and other substances from exiting an Adult Use Marijuana Business must be provided at all times.

**m o)** An Adult Use Marijuana Business shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and Town laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

**n p)** Security. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:

- (1) Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
- (2) Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working order;
- (3) A locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;



(4) Exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Old Orchard Beach Code of Ordinances;

(5) Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and

(6) Methods to ensure that no person under the age of twenty-one (21) shall enter an Adult Use Marijuana Business and have access to marijuana and marijuana products.

(7) Methods to control loitering, which includes obstruction of free passage of pedestrians and vehicular traffic.

All security recordings shall be preserved for at least seventy-two (72) hours. An Adult Use Marijuana Business shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the business.

**o q)** Change of use/addition of use/expansion of use. If any type of Adult Use Marijuana Business wants to change to another type of establishment, add another type of Adult Use Marijuana Business to its existing operations, or to expand the existing use (including additional square footage), such change of use, additional use or expansion of use must be reviewed and approved by the Planning Board for compliance with this Ordinance.

**p r)** Other laws remain applicable. An Adult Use Marijuana Business shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing Adult Use Marijuana and/or Adult Use Marijuana Businesses, the stricter law or regulation shall control.

**q s)** Conditional approval. All Adult Use Marijuana Business approvals shall include a condition that requires the person or business entity to secure applicable State and Town licensing approvals before any on-site operations begin.

## **CHAPTER 18, Article XII, Sections 18-604 – 622 AMENDMENTS – ADULT USE MARIJUANA BUSINESS LICENSING**

**Draft 2 (October 2022)**

Amendments: deletions are ~~struck~~, additions are **bold underline**

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 Businesses 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.

**Compliant/Compliance: the state of operating a business in accordance with municipal and state laws, ordinances and regulations.**

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

**Dwelling: a building a portion thereof used exclusively for residential occupancy, including one-family, two-family, and multifamily dwellings, but not including hotels, motels, lodging houses or boardinghouses. The term "dwelling" includes the term "residence."**

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, **the License Administrator's Designee** 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.

**Stakeholder: A stakeholder means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, all members and managers; with respect to a corporation, whether profit or non-profit, all stockholders, directors, corporate officers or persons with equivalent titles; and with respect to a partnership or limited liability partnership, all partners and investors.**

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 **or their designee**. 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.~~
- (12) **Proof of ownership of the property on which the Adult Use Marijuana Business will be located or, in the event the applicant is not the owner, the license application must be accompanied by a notarized statement and consent from the owner of the property acknowledging that a Adult Use Marijuana Business may be located on the property. If the property is leased or rented, the license application must be accompanied by a copy of the signed lease or rental agreement pertaining to the property or structure in which the**

**Adult Use Marijuana Business may be located. In addition to the above, the applicant shall provide the name and mailing address of the owner of record of the property or structure.**

(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~~:
  - customer check in procedures; location for receiving deliveries; estimate of number of customers per day; products to be sold; parking availability and location.
  - ~~i) For Stores:~~
  - ~~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.

**(18) Responses and supplemental documentation answering each of the merit criteria identified in Sec. 18-610 (1)**

**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) All Adult Use Marijuana Business licenses applications will be evaluated by a determination of completeness and use of the merit criteria outlined below. ~~shall be administered on a first come, first serve basis.~~ The completed license application package shall include a completed license application, all of the information required by Sec. 18-609 of this article, documentation showing the business location conformity with Sec. 78-803 and Sec. 78-1279 (5) a, merit criteria responses and supplemental documentation was submitted, and as well as the Adult Use Marijuana Store License Application required fee.
- b) No applicant, person, business entity or stakeholder shall apply for more than one license in any location in Town.
- c) 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 or their designee only during the posted application acceptance period as described in Sec. 18-612 of this article.
- d) Upon closing of the application acceptance period, the license administrator or their designee will review the license applications for the purpose of determination of completeness and assign points in accordance with the merit criteria identified in this section. The license administrator or their designee 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, the business location conforms with Sec. 78-803 and Sec. 78-1279 (5) a, merit criteria responses and supplemental documentation was submitted, and as well as the required fee was submitted. During the determination of completeness and merit criteria review, 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 and merit criteria review. ~~A determination of completeness is not approval of a license application.~~
- e) Merit Criteria. All applicants must provide responses and supplemental documentation answering and supporting answers for each of the following merit criteria. The supplemental documentation shall provide the support which demonstrates how the applicant will comply with their response to the merit criteria.

<u>Merit Criteria</u>	<u>Possible Points</u>	<u>Applicant Score</u>
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<p><b><u>e.1. The applicant or owners of an applicant that own 30% or more of a business applying for a business license are also owners of any business for 2 or more consecutive years that (select one and provide documentation):</u></b>  <b><u>- Requires municipal and state approvals:</u></b>  <b><u>- Requires municipal approvals:</u></b>  <b><u>Total Points Possible: 2</u></b></p>	<p><u>1</u> <u>1</u></p>	
<p><b><u>e.2. The applicant or owners that own 30% or more of a business applying for a business license can document their ability to operate an adult use or medical marijuana store, caregiver retail store or its equivalent with no history of license suspensions or revocations (select all that apply).</u></b>  <b><u>- Operated a compliant adult use marijuana store in Maine for 1 or more years:</u></b>  <b><u>- Operated a compliant medical marijuana caregiver retail store in Maine for 2 or more years:</u></b>  <b><u>- Operated a compliant adult use marijuana or medical marijuana store, caregiver retail store or its equivalent in another State for 2 or more years:</u></b>  <b><u>Total Points Possible: 6</u></b></p>	<p><u>2</u> <u>2</u> <u>2</u></p>	
<p><b><u>e.3. The property where the proposed adult use marijuana business will be located can be defined as “Use, commercial” as defined in Old Orchard Beach Zoning Ordinance, Sec. 78-1, at the time the license application is submitted or any time within the previous 4 years:</u></b>  <b><u>Total Points Possible: 2</u></b></p>	<p><u>2</u></p>	
<p><b><u>e.4. Retail sales floor area size (select one).</u></b>  <b><u>- Proposed business sales floor area (area of licensed sales area open to the public) size of 1,500 sq. ft. of less:</u></b>  <b><u>- Proposed business sales floor area size more than 1,501 sq. ft. but less than 2,500 sq. ft.:</u></b>  <b><u>Total Points Possible: 3</u></b></p>	<p><u>2</u> <u>1</u></p>	
<p><b><u>e.5. Business incorporates energy efficient elements and green infrastructure (select all that apply).</u></b>  <b><u>- Applicant will utilize energy efficient lighting indoors and outdoors certified by the U.S. Department of Energy:</u></b>  <b><u>- Applicant will utilize permeable or pervious asphalt or concrete:</u></b>  <b><u>- Applicant will utilize an on-site renewable energy source such as solar:</u></b>  <b><u>Total Points Possible: 3</u></b></p>	<p><u>1</u> <u>1</u> <u>1</u></p>	

<b><u>e.6. Applicant provides Maine Registered Traffic Engineer analysis and assessment report demonstrating customer vehicle traffic will not negatively contribute to high crash locations identified by Maine Department of Transportation, 2019-2021 data:</u></b> <b><u>Total Points Possible: 2</u></b>	<b><u>2</u></b>	
<b><u>e.7. Proposal has legal access and use to on-site off-street parking that exceeds town parking requirements identified in Ch. 78, Sec. 1279 (5) by 20% or more:</u></b> <b><u>Total Points Possible: 1</u></b>	<b><u>1</u></b>	
<b><u>e.8. The lot where the adult use marijuana business is proposed to be located does not share a real property boundary line with a lot used for one or more dwelling purposes as of the date of the adoption of these merit criteria:</u></b> <b><u>Total Points Possible: 2</u></b>	<b><u>2</u></b>	
<b><u>e.9. Applicant proposes redevelopment of a building or property that has been vacant for at least twelve consecutive months preceding the date of the adoption of these merit criteria:</u></b> <b><u>Total Points Possible: 1</u></b>	<b><u>1</u></b>	
<b><u>Maximum Total Merit Criteria Points Available</u></b>	<b><u>22</u></b>	
<b><u>Total Merit Criteria Points Awarded</u></b>		

- f) **Merit Criteria Evaluation. Following the closing of the application acceptance period, the license administrator or their designee will evaluate the applicant's response to merit criteria and supplemental documentation. The license administrator or their designee may consult with town staff and town attorneys for the purpose of assisting with the evaluation. For each criterion met by the applicant, the applicant shall receive the entire assigned point value or associated sub scores. Submissions with no response to criteria will receive zero (0) points for the criteria or associated sub criteria that received no response from the applicant. Submissions with responses but without supplemental documentation will receive zero (0) points for each criteria or associated sub criteria without supplemental documentation. The scores awarded by the license administrator or their designee shall be totaled for each application. The application that scores the highest point total shall be the application selected for merit criteria purposes. Each application will be independently scored.**
- g) **In the event of a merit criteria scoring tie between two or more applications with the highest point total, license application selection shall be administered through a public random lottery. Applications that qualify for the lottery are only those tied for the highest point total. The Council will conduct a lottery drawing from among the selected license applications to determine which applicant is awarded the**

**opportunity to proceed to conditional use permit review process. The Council will randomly select, via the lottery drawing, each license application. The order in which each license application is drawn shall determine the priority for each application for the purpose of proceeding to the conditional use permit review process. The first license application selected by the Council has the priority with subsequent priority following in numerical selected position. Selection in the lottery is not approval of the license application.**

- h) Within ~~thirty (30)~~ **forty-five (45)** calendar days after closing of the application acceptance period, the license administrator **or their designee** will conclude the determination of completeness review **and merit criteria evaluation process** and notify all applicants of the results. **The application selected by the license administrator or their designee shall: have been determined complete; confirmed the business location is in apparent conformity with Old Orchard Beach Code of Ordinances Chapter 78, Sec. 78-803 and Sec. 78-1279 (5) a; scored the highest total points for merit criteria; and submitted the required fee. In the event of a merit criteria scoring tie, the applicants who are tied shall proceed to the public random lottery before the selected license application can proceed to the conditional use process. In the event a single application scores the most points, that applicant** 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.
- i) **The** Selected applicants shall submit a complete conditional use permit application to the Planning Board within ~~sixty (60)~~ **ninety (90)** 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~~ **the** 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 **or their designee** 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 **and shall submit documentation** 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) Applicants shall submit documentation, including identified actions, which demonstrates compliance with initial application merit criteria responses and supplemental documentation.**

(4 ~~5~~) 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 **or their designee** 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 **or their designee** 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 **or their designee** 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, **and license administrator or their designee** 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 **including, but not limited to the applicant's documented responses and submissions to the merit criteria** 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: **and may result in revocation of Adult Use Marijuana Business License.**

### **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 15<sup>th</sup> day of November, 2022.

A True Copy

Attest:

s/Kim McLaughlin  
Kim M. McLaughlin, Town Clerk