

TOWN OF CHELSEA
MEDICAL MARIJUANA RETAIL STORE LICENSING ORDINANCE

A. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001 and 22 M.R.S. § 2429-D. The purpose of this Ordinance is to set forth procedures and standards for the issuance of local licenses for Medical Marijuana Retail Stores in order to protect public health, safety and welfare.

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.

Applicant shall mean a person who has submitted an application for licensure as a Medical Marijuana Retail Store pursuant to this Article.

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.

Local Licensing Authority shall mean the Town Manager or, if appealed to the Board of Selectmen, the Board of Selectmen.

~~Medical Marijuana Business shall include a Manufacturing Facility, Registered Dispensary, Marijuana Testing Facility, or Caregiver Retail Store, as defined in 22 M.R.S. § 2422.~~
(Definition removed due to inapplicability)

Medical Marijuana Retail Store shall mean a location other than the permanent residence of a registered caregiver or a qualifying patient from which a registered caregiver provides marijuana for medical use to a qualifying patient.

Owner shall mean a person whose beneficial interest in a Medical Marijuana Retail Store is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of the Medical Marijuana Retail Store and/or has a controlling interest in the Medical Marijuana Retail Store.

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 Retail Store 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 for Medical Marijuana Retail Stores.

C. License Requirement

Effective **upon adoption by voters** , a Medical Marijuana Retail Store shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this Ordinance.

D. 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 having a sign posted in a conspicuous place on the Premises listed on the license application at least seven (7) days prior to action, and by publication in a newspaper of general circulation in the town of Chelsea at least seven (7) days prior to action.
- (3) The Town Manager 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 by the Town Manager until the Fire Chief, Health Inspector and Code Enforcement Officer have all 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 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 Town Manager may include any conditions of approval recommended by reviewing officials, as well as any other reasonable conditions deemed in his or her 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 regarding Medical Marijuana Retail Stores 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 Medical Marijuana Retail Store 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. The following supporting materials shall also be provided with the application:

- (1) If state licensure is required, a copy of the Applicant's State License application and supporting documentation, as submitted to the State Licensing Authority.
- (2) Evidence of all State approvals or conditional approvals required to operate the Medical Marijuana Retail Store, including, but not limited to, a State License as defined by this Ordinance, a State retail certificate, or a State health license.
- (3) 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 Medical Marijuana Retail Store.
- (4) 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. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.
- (5) A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license allowing the Town of Chelsea or its officials to obtain criminal records and other background information related to the individual.
- (6) Evidence of all land use approvals or conditional land use approvals required to operate the Medical Marijuana Retail Store, including, but not limited to building permit or certificate of occupancy.
- (7) Evidence of all other local approvals or conditional approvals required to operate the Medical Marijuana Retail Store, including any applicable food or victualer's license.
- (8) A description of the premises for which the license is sought, including a plan of the premises.

(9) 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.

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.

G. License Term and Renewal

Each license issued under this Ordinance shall be valid for the term of license granted by the State License Authority ("the license year"), if a state license is required. 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 until a license is granted. A late fee shall apply as set by the Board of Selectmen.

H. Denial, Suspension or Revocation of a License

In reviewing license applications, the Licensing Authority and any consulting Town officials 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.

A license application for a Medical Marijuana Retail Store 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, 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. Is not a resident of the State of Maine.
- iv. Has had a license for a Medical Marijuana Business or adult use "marijuana establishment" as defined by 28-B M.R.S. § 102(29) revoked by the Town or by the State.
- 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 Medical Marijuana Business or of any adult use "marijuana establishment" as defined by 28-B M.R.S. § 102(29).

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

I. 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 all 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 Medical Marijuana Retail Stores in other than the licensed Premises, such as at farmer's markets, farm stands or kiosks.

(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 Medical Marijuana Retail Stores 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) A Medical Marijuana Retail Store 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 Medical Marijuana Retail Stores that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

J. Transfer of Ownership or Change of Location

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new license for that location.

K. 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.

L. Other Laws

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in 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.

APPENDIX A**MEDICAL MARIJUANA RETAIL STORE LICENSING ORDINANCE****SCHEDULE OF REVENUES, CHARGES, FEES AND FINES**

Medical Marijuana Retail Store License Fee	<u>\$1000</u>
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	