

**TOWN OF GREENVILLE MARIJUANA ESTABLISHMENTS
LICENSING ORDINANCE
DRAFT FOR LEGAL REVIEW
(11/13/18)**

ARTICLE I. PURPOSE AND AUTHORITY

Section 1.1 Purpose. The purpose of this Ordinance is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in the Town of Greenville Marijuana Establishments Ordinance, as may be amended.

Section 1.2 Authority. This Ordinance is adopted pursuant to the authority granted by 28-B M.R.S.A. § 101 *et seq.*, as may be amended, and 22 M.R.S.A. § 2421 *et seq.*, as may be amended.

ARTICLE II. DEFINITIONS

Section 2.1 The definitions in Section 4 of the Town of Greenville Marijuana Establishments Ordinance, as may be amended, are hereby adopted by reference. In addition, the following terms shall have the following meanings:

Applicant - Means a person that has submitted an application for licensure as a Marijuana Establishment pursuant to this Ordinance.

Licensed Premises - Means the premises specified in an application for a State or Local License pursuant to this Ordinance that are owned or in possession of by the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana, or adult use marijuana products, medical marijuana or medical marijuana products in accordance with the provisions of this Ordinance and the requirements of State law and regulations.

Licensee - Means a person licensed pursuant to this Ordinance or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Ordinance.

Local License - Means any license required by and issued under the provisions of this Ordinance.

Owner - Means a person whose beneficial interest in a Marijuana Establishment 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 Marijuana Establishment and has a controlling interest in a Marijuana Establishment.

Person - Means 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.

State License - Means any license, registration or certification issued by the State Licensing Authority.

State Licensing Application - Means the application form and supporting materials required by the State for the purpose of a person obtaining a State license, registration or certification for the cultivation, manufacture, distribution, testing and sale of adult use marijuana, adult use marijuana products, medical marijuana and/or medical marijuana products in this State.

State Licensing Authority - Means the authority (or authorities) created by the State for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of adult use marijuana, and adult use marijuana products, medical marijuana and/or medical marijuana products in this State.

1 State License - Means any license issued by the State Licensing Authority. State Licensing Authority
2 shall mean the authority created by the State for the purpose of regulating and controlling the
3 licensing of the cultivation, manufacture, distribution, testing and sale of adult use marijuana and
4 adult use marijuana products in this State.
5

6 **ARTICLE III. GENERAL**
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8 **Section 3.1 Marijuana Establishments.** Marijuana Establishments shall be allowed, subject to the
9 requirements and restrictions of this Ordinance and the Town of Greenville Marijuana
10 Establishments Ordinance.

11 **Section 3.2 Prohibited Activities**

12 A. No Marijuana Establishment shall be established or operated within the Town without first
13 receiving and then maintaining all approvals required under this Ordinance and under the Town
14 of Greenville Marijuana Establishments Ordinance.

15 B. No Marijuana Establishment shall conduct any activity for which it has not received the required
16 State License and Local License.

17 C. Marijuana Social Clubs are prohibited within the Town.

18 **Section 3.3 Licenses Required**

19 A. **State License.** A Marijuana Establishment shall not operate until it is licensed by the State Licensing
20 Authority pursuant to the requirements of 28-B M.R.S.A. § 101 *et seq.*, as may be amended, and 22
21 M.R.S.A. § 2421 *et seq.*, as may be amended.
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23 B. **Local License.** A Local License issued under the provisions of this Ordinance is required for any
24 Marijuana Establishment.
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26 **ARTICLE IV. LICENSING**
27

28 **Section 4.1 Licensing Authority and Procedures**

29 A. All licenses for Marijuana Establishments, whether new or renewals must be obtained from the
30 Town of Greenville Select Board.

31 B. Each Applicant for a Local License shall complete and file an application on a form prescribed
32 by the Town Clerk, together with a license fee as set out in the Schedule of Fees of this
33 Ordinance together with the following submissions:

34 1. The name, mailing address, and phone number of the applicant; and the name, mailing
35 address, and phone number of the property owners of the property to be used, if other than
36 the applicant. If the applicant is not the property owner of record, then a notarized signed
37 statement from the property owner stating that the applicant has permission to utilize the
38 premises for the Marijuana Establishment must be submitted.

39 2. If a State License is required for the proposed use, a copy of the Applicant's State License
40 Application and supporting documentation as filed with the State Licensing Authority and
41 any amendments thereto.

42 3. Evidence of all State approvals or conditional approvals required to operate a Marijuana
43 Establishment, including, but not limited to, a State License as defined by this Ordinance, a
44 State retail certificate, or a State health license.

45 4. If not included in the Applicant's State License Application, attested copies of the articles of
46 incorporation and bylaws if the Applicant is a corporation, operating agreement if the

1 Applicant is a limited liability company, evidence of partnership if the Applicant is a
2 partnership, or articles of association and bylaws if the Applicant is an association.

- 3 5. If not included in the Applicant's State License Application, an affidavit that identifies all
4 owners, officers, members, managers, or partners of the Applicant, their ownership interests,
5 and their places of residence at the time of the application and for the immediately preceding
6 3 years.
- 7 6. Evidence of all approvals required to operate a Marijuana Establishment pursuant to the
8 Town of Greenville Marijuana Establishments Ordinance to include, but not be limited to, a
9 copy of the Planning Board Conditional Use Permit Notice of Decision and the Planning
10 Board approved Operating Plan depicting the size and layout of the marijuana operation;
11 facilities for wastewater and waste disposal, electricity, water and other utilities necessary for
12 the normal operation of the facility; security; hours of operation; and plans for compliance
13 with applicable building code and federal and state environmental requirements. An
14 operating plan must include the proposed size and layout of the facility, and must depict the
15 total square footage of plant canopy area, floor area, and number of plants, as applicable to
16 the type of permit or license.
- 17 7. Evidence of all other local approvals or conditional approvals required to operate a
18 Marijuana Establishment pursuant to local and state laws.
- 19 8. For license renewal, an applicant must submit proof of continued compliance with all local
20 ordinances and state statutes and/or copies of any documentation determining non-
21 compliance.
- 22 9. Any additional information as may be needed by the Select Board in the issuing of the
23 license.

24 **C. Confidentiality**

- 25 1. Medical marijuana caregivers and other applicants submitting applications and supporting
26 information that is confidential under 22 M.R.S.A. § 2425-A(12), as may be amended, and the
27 Maine Freedom of Access Act, 1 M.R.S.A. § 403(3)(F), shall mark such information as
28 confidential.
- 29 2. An individual who possesses a valid Maine medical marijuana registered caregiver registry
30 identification card need not identify him/herself in an application for a license for a Marijuana
31 Establishment. The cardholder must identify him/herself and provide the relevant cards to the
32 Town Clerk for examination, but the identity of the cardholder shall not be a public record and
33 the Town Clerk shall not share the identity of the cardholder, except as necessary by law in the
34 performance of his/her duties. At the time of application, the cardholder may appoint a
35 representative to appear before the Select Board on his/her behalf. Advertisements for public
36 hearing shall contain the location of the proposed Marijuana Establishment and the identity of
37 the owner of the real estate and the identity of the designated representative. The Town Clerk
38 may certify to the Select Board that the applicant meets the necessary legal requirements as a
39 cardholder(s).

- 40 **D. License Fees.** Fees for a Local License shall be established by the Select Board, and licenses must
41 be renewed annually, including payment of license fees. These fees shall be non-refundable and
42 submitted with the application. The application shall not be considered complete until the
43 appropriate fee is paid.

44 **E. Procedures**

- 45 1. The applicant shall submit one (1) copy of the application and all other related and required
46 information to the Town Clerk. The Clerk may request additional copies, as necessary.

- 1 2. Complete application. In the event that the Clerk or Code Enforcement Officer determines
2 that a submitted application is not complete, the Clerk or Code Enforcement Officer shall
3 notify the Applicant within 10 business days that the application is not complete and shall
4 inform the Applicant of the additional information required to process the application.
- 5 3. Upon receipt of a complete application, the Town Clerk will notify the Select Board, Town
6 Manager, Code Enforcement Officer, Fire Chief, Police Chief, and Health Officer that the
7 application is available for their review and comment.
- 8 4. The Code Enforcement Officer shall, prior to the scheduled public hearing, report to the
9 Select Board whether such application and premises comply with the Town of Greenville
10 Marijuana Establishments Ordinance, the Town's Land Use Ordinance, and any other
11 applicable state and local laws. The Code Enforcement Officer shall consult with the
12 Town Manager, Police Chief, Fire Chief, and Health Officer to determine compliance
13 with their rules, regulations or policies. In the event the premises are not yet constructed,
14 these officials shall base their recommendations on the plans submitted in the application.
15 Any Local License approved prior to construction shall contain a condition that the
16 premises may not open for business until the premises has been inspected by the Code
17 Enforcement Officer and determined to be in substantial compliance with the application
18 as submitted and approved by the Select Board.

19 **F. Public Hearing.** The Select Board shall, prior to granting the initial Local License and after
20 reasonable notice to the public and the applicant, hold a public hearing within 30 days of the date
21 when the application was deemed complete. The notice to the public will be paid for by the
22 applicant. The Board may waive the requirement for a public hearing for Local License renewals
23 where there has not been a request for a public hearing from the Town Manager, Police Chief,
24 Fire Chief, Health Officer, Code Enforcement Officer, or an abutter.

25 **G. Decisions and Conditions.** The Select Board shall grant a Local License unless they find that
26 issuance of the Local License will be detrimental to the public health, safety or welfare, or
27 would violate any Town ordinances, rules, regulations or policies. The Select Board shall
28 have the authority to impose such reasonable terms and conditions on a Local License as
29 necessary to protect the public health, safety or welfare, and to obtain compliance with this
30 Ordinance, the Town of Greenville Marijuana Establishments Ordinance, or any other Town
31 ordinance, rules, regulations or policies.

32 **H. Permit Renewal.** A Local License for a Marijuana Establishment shall be valid for 1 year and
33 must be renewed annually. Application for renewal of Local Licenses shall be made no later than
34 60 days prior to the expiration of the existing Local License. Applicants for re-licensure must
35 demonstrate continued compliance with this Ordinance, the Town of Greenville Marijuana
36 Establishments Ordinance, or any other Town ordinance, rules, regulations, or policies.

37 **I. Transfer in Ownership or Change in Location.** Local Licenses issued under this Ordinance
38 are not transferable to a new owner. Any change in ownership or change in the officers of a
39 Marijuana Establishment shall require a new Local License. Local Licenses are limited to the
40 location for which they are issued and shall not be transferable to a different location. A Licensee
41 who seeks to operate in a new location shall acquire a new Local License for that location.

42 **J. Posting of Local License.** The Local License, if granted, shall state the name of the person(s) to
43 whom it is issued, the expiration date, and the address of the Marijuana Establishment. The Local
44 License shall be posted in a conspicuous place at the licensed establishment so that it can be
45 easily read anytime the establishment is open.

Section 4.2 Permitting Timeframe and Appeal Procedures. Any licensee requesting a Local License from the Select Board shall be notified in writing of the Board's decision no later than 45 days from the date of the submission or a complete application. In the event that an applicant is denied the Local License, the applicant shall be provided with the reasons for the denial in writing. The applicant may reapply for a Local License no earlier than 30 days after an application for a license is denied. An applicant may also appeal of a decision of the Select Board to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

Section 4.3 Inspections

A. Marijuana Establishments may be subject to periodic inspections by the Health Officer, Code Enforcement Officer, Fire Department, and Police Department to ensure compliance with health regulations, land use or safety regulations, and license conditions. Each licensee, by accepting this license, consents to the entry upon the licensed premises by such officials.

B. The Select Board may revoke the Local License of any licensee in the Town who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis or who interferes with such officer, official or employee while in the performance of his duty.

Section 4.4 Suspension or Revocation of a Permit. In addition to any other penalty which may be provided, the Select Board may, after a public hearing preceded by notice to the permit holder and public, suspend or revoke any Local License which has been issued under this Ordinance on grounds that the Marijuana Establishment, so permitted, constitutes a detriment to the public health, safety, welfare, or violates the terms of the license or this Ordinance or any other town ordinance, articles, bylaws, or rules and regulations.

ARTICLE V: INDEMNITY, CONFLICT, PENALTY, SEVERABILITY, AND EFFECTIVE DATE

Section 5.1 Indemnity (Is this needed? If yes, should it be in the other ordinance?)

A. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney's fees reasonably incurred by that party in defense of such liabilities, claims and demands.

B. By accepting a permit issued pursuant to this Ordinance, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a retail or medical marijuana business that is the subject of this license. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney's fees reasonably incurred by that party in defense of such liabilities, claims and demands.

Section 5.2 Other Laws

Commented [p1]: Considering marijuana is still illegal at the Federal level, this provision is wise to have as part of the license to provide some protections for the Town. It is not needed in the other ordinance so long as it is provided here. The applicant cannot begin operations until this license is granted.

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

6 B. Except as otherwise specifically provided herein, this Ordinance incorporates the requirements
7 and procedures set forth in the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-
8 C, as may be amended. In the event of a conflict between the provisions of this Chapter and the
9 provisions of the Maine Medical Use of Marijuana Act or any other applicable State or local law
10 or regulation, the more restrictive provision shall control.

11 **Section 5.3 Violations and Penalties.** The operation of any Marijuana Establishment without the
12 required Local License or in violation of the requirements of this Ordinance shall be a violation of this
13 Ordinance. Violations shall be punished by a fine of not more than \$500.00 for the first offense, for
14 each day the violation continues after receipt of written notice of the violation, and up to \$1,000.00 for
15 each subsequent offense, for each day the violation continues after receipt of written notice of the
16 violation, to be recovered on complaint, to the use of the Town of Greenville.

17 **Section 5.4 Severability.** The provisions of this Ordinance are severable, and if any provision shall
18 be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in
19 full force and effect.

20 **Section 5.5 Effective Date.** This Ordinance and any subsequent amendments take effect upon enactment
21 by the legislative body of the Town of Greenville. However, no application for any Local License shall be
22 acted upon until the effective date of State regulations promulgated and adopted pursuant to 28-B
23 M.R.S.A. Chapter 1.
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TOWN OF GREENVILLE MARIJUANA ESTABLISHMENTS LICENSING
(Select Board's Schedule of Fees – not part of this Ordinance)

DRAFT LICENSING FEES
11/13/18

MARIJUANA FACILITY/USE	LICENSE FEE (ANNUAL)
Cultivation Facility	
Tier 1	\$250
Tier 2	\$500
Tier 3	\$1,500
Tier 4	\$250
Home Occupation	?
Manufacturing Facility	
Tier 1	\$500
Tier 2	\$1,500
Store	
Tier 1	\$250
Tier 2	\$500
Testing Facility	No fee
Dispensary	\$1,500
Notes: Combined facilities or uses: add the above fees to get the total fee If license has been expired more than 30 days - Double fee	