

CHAPTER ____
ADULT USE CANNABIS ESTABLISHMENT LICENSING ORDINANCE
CITY OF ELLSWORTH, MAINE

ARTICLE 1
GENERAL PROVISIONS

SECTION 1. TITLE AND PURPOSE

This Ordinance shall be known and cited as "The City of Ellsworth Cannabis Establishment Licensing Ordinance". This Ordinance applies to the City of Ellsworth. The purpose of this Ordinance is to provide for and regulate the annual issuance of Local Licenses for Adult Use Cannabis Establishments as defined in this Ordinance and by the State of Maine under the Cannabis Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended.

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. §§ 3001, 3702, 4301 and 28-B M.R.S. § 401 et seq., as may be amended.

ARTICLE 2
DEFINITIONS

As used in this Ordinance, the following words and phrases shall have meanings ascribed to them in this article.

Adult Use Cannabis shall mean “adult use cannabis” as that term is defined in 28-B M.R.S.A. § 102.

Adult Use Cannabis Establishment shall mean an Adult Use Cannabis Store as that term is defined in 28-B M.R.S.A. § 102.

Adult Use Cannabis Product shall mean “adult use cannabis product” as that term is defined in 28-B M.R.S.A. § 102.

Applicant shall mean a person that has submitted an application for licensure as a Cannabis Establishment pursuant to this Ordinance.

Adult Use Cannabis Store shall mean a “cannabis store” as that term is defined in 28-B M.R.S.A. § 102. An Adult Use Cannabis Store is an entity licensed to purchase adult use marijuana from a Cannabis Cultivation Facility and to purchase adult use cannabis and adult use cannabis products from a Cannabis Products Manufacturing Facility and to sell adult use cannabis and adult use cannabis products to consumers.

Cannabis Cultivation Facility shall mean a “cultivation facility” as that term is defined in 28-B M.R.S.A. § 102.

Cannabis Establishment shall mean a “cannabis establishment” as that term is defined in 28-B M.R.S.A. § 102, as may be amended, or any registration issued under 22 M.R.S.A. § 2422, as may be amended.

Cannabis Products Manufacturing Facility shall mean a “products manufacturing facility” as that term is defined in 28-B M.R.S.A. § 102.

Cannabis Social Club shall mean an entity licensed to sell adult use cannabis products to consumers for consumption on the licensed premises. Cannabis Social Clubs are prohibited within the City.

Lapse shall mean to end because of neglect or failure to act or timely renew a Provisional Local License or Local License.

Licensed Premises shall mean the premises specified in an application for a State or Local License pursuant to this Ordinance that are owned or in possession of the Licensee and within which the Licensee is authorized to receive, distribute, or sell adult use cannabis, adult use cannabis products, medical cannabis or medical cannabis products in accordance with the provisions of this Ordinance and the requirements of State law and regulations.

Licensee shall mean a person licensed pursuant to this Ordinance.

Local License shall mean any license required by and issued under the provisions of this Ordinance.

Local Licensing Authority shall mean the City Clerk or the City Council, as further specified in the provisions of this Ordinance.

Owner shall mean a person whose beneficial interest in an Adult Use or Medical Cannabis 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 an Adult Use or Medical Cannabis Establishment and has a controlling interest in the Adult Use or Medical Cannabis Establishment.

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.

State License shall mean any license, registration or certification issued by the State Licensing Authority.

State Licensing Application shall mean the application form and supporting materials required by the state for the purpose of a person obtaining a State license, registration or certification for an Adult Use Cannabis Store, Medical Cannabis Caregiver Retail Store or Medical Cannabis Registered Dispensary.

State Licensing Authority shall mean the authority (or authorities) created by the State for the purpose of regulating and controlling the licensing of an Adult Use Cannabis Store, Medical Cannabis Caregiver Retail Store or Medical Cannabis Registered Dispensary in this State.

ARTICLE 3 CANNABIS ESTABLISHMENTS

Adult Use Cannabis Establishments shall be allowed, subject to the requirements and restrictions of this Chapter and Chapter ___ of this Code.

ARTICLE 4 PROHIBITED ACTIVITIES

- 1) No Adult Use Cannabis Establishment shall be established or operated within the City without first receiving and then maintaining all approvals required under this Code, including by not limited to, this Chapter and Chapter ___ of the Code.

- 2) No Adult Use Cannabis Establishment shall conduct any activity for which it has not received the required State License and Local License.
- 3) Adult Use Cannabis Establishments shall only be located in accordance with the City's Zoning Ordinance and shall not be located within five hundred (500) feet of a public or preexisting private schools, State Licensed Daycare facilities, licensed day-care centers, public athletic fields, public parks, playgrounds, or recreational facilities properties as measured in accordance with distance rules listed in this Ordinance.
- 4) Cannabis Social Clubs are prohibited within the City.

ARTICLE 5 LICENSE REQUIRED; LIMITATION

- 1) State License. An Adult Use Cannabis Establishment shall not operate until it is licensed by the State Licensing Authority pursuant to the requirements of 28-B M.R.S.A Chapter 1, as may be amended. An Applicant may not operate an Adult Use Cannabis Establishment without a State License and all other necessary City approvals.
- 2) Local License. A Local License issued under the provisions of this Ordinance is required for any Adult Use Cannabis Establishment.
- 3) The operation of the following Adult Use Cannabis Establishments is allowed, subject to the restrictions of this Ordinance and applicable state and local law:
 - a) Adult Use Cannabis Store.
- 4) No Applicant for an Adult Use Cannabis Establishment shall submit an application for a Local License unless it has been issued a Conditional License by the Maine Office of Cannabis Policy to operate an Adult Use Cannabis Establishment.
- 5) The number of Adult Use Cannabis Store Local Licenses may be limited to three (3). In the event of a tie for any available Local License after calculating the merit-based criteria, a lottery drawing will determine which Applicant is awarded the available Local License. (SEE APPENDIX A) When a Local License remains or becomes available, the same 30-day application window and evaluation process shall apply. If a previously awarded Local License for a location lapses, any subsequent Applicant for a Local License for that location must comply with the then-current requirements of this Ordinance, including the merit-based criteria assessment and lottery provisions.

ARTICLE 6 LICENSING AUTHORITY

SECTION 1. LICENSING PROCEDURES

- 1) The initial application for an Adult Use Cannabis Store license shall be processed by the City Clerk but reviewed and may be approved by the City Council. Application shall be made on a form prepared by the City and must include all information required by this Ordinance and by the form.
- 2) Public hearing. A public hearing on an application for an Adult Use Cannabis Store license shall be scheduled after a Local License has been awarded. The City Clerk shall post and publish public notice of the hearing not less than seven (7) days prior to the hearing. The City Clerk shall give public notice

by posting a sign in a conspicuous place on the premises identified in an Application for Local License and by publication in a newspaper of general circulation in Hancock County.

- 3) A renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a new application. As part of the renewal process, the City Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the City Clerk determines that a hearing on the renewal application is necessary and appropriate, the City Clerk may elect to defer action on a renewal application and refer the matter to the City Council for public hearing and action.

SECTION 2. RESPONSIBILITIES AND REVIEW AUTHORITY

- 1) The City Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance. The City Clerk may consult with other City Departments and any appropriate State Licensing Authority as part of this investigation.
- 2) The Licensing Authority shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this Chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- 3) No Local License shall be granted by the Licensing Authority until the Police Chief, the Fire Chief, the Health Inspector and, if applicable, the Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this Ordinance. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the City authorized to make the inspection at any reasonable time that admission is requested.

ARTICLE 7 LICENSE FEES

Fees for a Local License shall be as set forth in the Schedule of License, Permit, Inspection and Application Fees established by City Council order and shall be paid annually.

ARTICLE 8 APPLICATION

SECTION 1. APPLICATION REQUIRED

Each Applicant for an Adult Use Cannabis Store license shall complete and file an application on a form prescribed by the City Clerk, together with a license fee as required by Article 7 of this Ordinance and as specified in the Schedule of License, Permit, Inspection and Application Fees, together with the following submissions:

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

- 2) Evidence of all State approvals or conditional approvals required to operate an Adult Use Cannabis Establishment, including, but not limited to, a State Conditional License, a State retail certificate, or a State health license.
- 3) If not included in the Applicant's State License Application, attested copies of the articles of incorporation, and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.
- 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.
- 5) If not included in the Applicant's State License Application, a release authorized by 16 M.R.S.A. § 620(6), as may be amended, with the application for each Applicant and for each officer, owner, member, manager, or partner of the Applicant seeking a Local License.
- 6) Evidence of all land use approvals or conditional land use approvals required to operate an Adult Use Cannabis Establishment pursuant to the Code of Ordinances, including, but not limited to, a building permit, special exception approval, site plan approval, change of use permit, or certificate of occupancy.
- 7) Evidence of all other local approvals or conditional approvals required to operate an Adult Use Cannabis Establishment pursuant to the Code of Ordinances, including, but not limited to, food license or victualer's license.
- 8) A description of the premises for which the Local License is sought, including a floor plan of the premises showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage.
- 9) A copy of the Applicant's facility plan, including security plan and operations manual.

SECTION 2. COMPLETE APPLICATION

In the event that the City Clerk determines that a submitted application is not complete, the City Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

ARTICLE 9 LICENSE EXPIRATION AND RENEWAL

- 1) Each Local License issued shall be effective for one year from the date of issuance.
- 2) Renewal applications must be submitted at least thirty (30) days prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.
- 3) If a Local License for a location lapses, any subsequent applicant for a Local License for that location must comply with the then-current requirements of this Ordinance and the Code, including seeking and obtaining Planning Board site plan approval for the cannabis use at that location, the merit-based criteria assessment and lottery provisions.

ARTICLE 10 DENIAL, SUSPENSION OR REVOCATION OF LICENSE

In Addition to the provisions set forth in Article 8 of this Chapter, the following applies:

- 1) A Local License under this Ordinance shall be denied to the following persons:
 - a) A person who fails to meet the requirements of this Ordinance. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet those requirements.
 - b) A person who has had a license or registration for a Cannabis Establishment revoked by the City or by the State.
 - c) An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.
- 2) The City may suspend or revoke a license for any violation of this Chapter, Chapter 1 or any other applicable building and life safety code requirements. The City may suspend or revoke a license if the licensee has a State License for a Cannabis Establishment suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation.
- 3) If a Local License for a location is finally adjudicated as revoked, any subsequent applicant for a Local License for that location must comply with the then-current requirements of this Ordinance and the Code, including seeking and obtaining Planning Board site plan approval for the cannabis use at that location, the merit-based criteria assessment and lottery provisions.

ARTICLE 11 OPERATING REQUIREMENTS

The Licensee shall comply with all the following requirements during the term of the Local License:

- 1) Display of License. The current Local License shall be displayed at all times in a conspicuous location within the Licensed Premises.
- 2) Location. All Licensed Premises shall be fixed permanent locations. Licensees shall not be permitted to operate Adult Use Cannabis Establishments in temporary locations such as mall kiosks or farm stands.
- 3) Compliance with other laws. An Adult Use Cannabis Establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or will adopt in the future any stricter law or regulation governing Adult Use Cannabis Establishments, the stricter law or regulation shall control.

ARTICLE 12 TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION

Licenses issued under this Ordinance are not transferable. 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 Local License

for that location.

ARTICLE 13 APPEALS

- 1) Any appeal of a decision of the City Clerk under the provisions of this Ordinance shall be made to the City Council. The City Council shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the application meets the requirements of this Ordinance.
- 2) Any appeal of a decision of the City Council shall be to the Superior Court, in accordance with the requirements of Rule 80B or the Maine Rules of Civil Procedure.

ARTICLE 13 VIOLATIONS AND PENALTIES

The operation of any Cannabis Establishment without the required Local License or in violation of the requirements of this Chapter shall be a violation of this Chapter. Violations shall be subject to fines as set forth in this Chapter. Each day of a violation shall constitute a separate violation. Any such fines may be in addition to any suspension or revocation imposed in accordance with this Ordinance. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its attorney's fees.

ARTICLE 14 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.

ARTICLE 15 OTHER LAWS

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Cannabis 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 Chapter and the provisions of the Maine Cannabis Legalization Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

ARTICLE 16 EFFECTIVE DATE

This Ordinance shall take effect pursuant to the City Charter.

CITY OF ELLSWORTH, MAINE

ADULT USE CANNABIS ESTABLISHMENT LICENSING ORDINANCE

Appendix A - Merit Based Criteria

The number of Adult Use Cannabis Establishment Local Licenses may be limited to three (3) Adult Use Cannabis Establishments. Local Licenses shall be awarded subject to the merit-based criteria found in Appendix A of this Ordinance. Applications received within 30 days of the first adoption of this Ordinance that meet the license and application requirements shall be ranked using the merit-based criteria. If there are more than two applicants for Adult Use Cannabis Establishments the two highest-scoring applications that meet all other Ordinance criteria will be chosen. In the event of a tie for any available Local License after calculating the merit-based criteria, a lottery drawing will determine which Applicant is awarded the available license. When an Adult Use Cannabis Establishment Local License remains or becomes available, the same 30-day application window and evaluation process shall apply. ADULT USE CANNABIS ESTABLISHMENT LICENSING ORDINANCE, Article 5.

- 1) **Veteran** – Applicant is a current or honorably discharged member of the U.S. Armed Services. *1 point.*
- 2) **Business Plan** – Applicant has submitted a complete, detailed business plan. *1 point.*
- 3) **Cannabis Education** – Applicants that provide proof of successful completion of Cannabis Educational classes provided by State of Maine accredited cannabis training programs (Class certificates are acceptable forms of proof). *1 Point, and 0.25 points for each additional different certification class.*
- 4) **Financial Stability** – Applicant is considered financially stable. The financial stability of the Applicant may be evidenced by a letter of referral in good standing from the Applicant's financial institution proof of necessary insurance policies, proof of worker's compensation contribution, etc. *1 point.*
- 5) **Cannabis Industry or Related Business Experience** – Applicant is experienced in cannabis industry or other highly regulated industry. *1 point for each year of managerial business experience, per business, in violation free, age verified sales of other controlled substances, such as alcohol, tobacco, or firearms.*