Article 18- Marijuana establishments

Section 18.01 Purpose

The purpose of this article is to provide for the regulation of marijuana establishments 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.

Section 18.02 Authority

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

Section 18.03 Definitions

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

Adult use marijuana shall mean " adult use marijuana product" as that term is defined in 28-B. M.R.S.A 102 (2), as may be amended.

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

Cultivate or cultivation shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other processing of marijuana for use or sale. It does not include manufacturing.

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

Licensee shall mean a person licensed pursuant to this Article or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Article.

Local licensing authority shall mean the City Clerk or the City Council, as further specified in the provisions of this Article.

Manufacture or manufacturing shall mean the production, blending, infusion, compounding, or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. It does not include cultivation.

Marijuana shall mean "marijuana" as defined in 28-B M.R.S.A 102(27), as may be amended.

Marijuana concentrate shall mean the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin, including, but not limited to hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

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Marijuana Cultivation Facility shall mean a " cultivation facility" as that term is defined in 28-B M.R.S.A 102 (13), as may be amended. A marijuana cultivation facility is an entity licensed to cultivate, prepare, and package adult use marijuana and to sell adult use marijuana to marijuana establishments.

Marijuana Establishment shall mean a " marijuana establishment" as that term is defined in 28-B .R.S.A 102 (29), as may be amended. A marijuana establishment is a marijuana store, a marijuana cultivation facility, a marijuana products manufacturing facility, or a marijuana testing facility.

Marijuana products manufacturing facility shall mean a " products manufacturing facility" as that term is defined in 28-B M.R.S.A 102 (42), as may be amended. A marijuana products manufacturing facility is an entity licensed to purchase adult use marijuana products; and to sell adult use marijuana products from a marijuana cultivation facility only to other marijuana products manufacturing facilities, and marijuana stores.

Marijuana store shall mean a " marijuana store" as defined in 28-B M.R.S.A 102 (33), as may be amended. A marijuana store is an entity licensed to purchase adult use marijuana from a marijuana cultivation facility and to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana and adult use marijuana products to consumers.

Marijuana testing facility shall mean a " testing facility" as defined in 28- B M.R.S.A 102 (53), as may be amended. A Marijuana testing facility is a facility licensed to develop, research, and test marijuana, marijuana products, and other substances.

Owner shall mean 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 shall mean a natural person, partnership, association, or a manager, agent, owner, director, servant, officer, or employee thereof. " person" does not include any governmental organization.

State license shall mean any license issued by the state licensing authority.

State licensing authority shall mean the authority created by the State for the purpose of regulating and controlling the testing and sale of adult use marijuana and adult use marijuana products in the state.

Section 18.04 Marijuana establishments

Marijuana establishments shall be allowed, subject to the requirements and restrictions of this article.

Section 18.05 Prohibited activities

A. No marijuana establishment shall be established or operated within the City without first receiving and then maintaining all approvals required under this Code, including, but not limited to, this article and other articles as required by the Land Use Code,
B. No marijuana establishment shall conduct any activity for which it has not received the required state license and local license. Local license requirements are detailed in the City Code section

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Section 18.06 License Required

A. State license. A marijuana 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 a marijuana establishment without a state license and all other necessary local approvals.
B. Local license. A local license issued under the provisions of this article is required for any marijuana cultivation facility, marijuana products manufacturing facility, or marijuana store. A marijuana testing facility does not require a local license.

Section 18.06 Performance standards for medical marijuana dispensaries

Notwithstanding the provisions of 1 M.R.S.A 302 or any other law to the contrary, this section, when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted upon by the Planning Board prior to January 11, 2010.

The following standards apply to all medical marijuana dispensaries:

A. Location criteria. No medical marijuana dispensary shall be sited within 500 feet of the lot lines of any of the following:
    1. A public or private elementary, secondary, or post- secondary school
    2. A licensed child care facility
    3. Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center

    The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed above at their closest points.

B. Signage and advertising. All signage and advertising for a medical marijuana dispensary shall comply with the applicable provisions of the Advertising Ordinance of the City of Bath.
C. Security Requirements. Security measures at a medical marijuana dispensary and any associated cultivation facilities 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 condition
    3. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises
    4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Land Use Code
    5. Deadbolt locks on all exterior doors and locks or bars on any other access points

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All security recordings shall be preserved for at least seventy-two (72) hours by the medical marijuana dispensary. The medical marijuana dispensary 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 City may provide notice of any operating problems associated with the medical marijuana dispensary.

D. Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.
E. On site consumption of medical marijuana. The consumption, ingestion, or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited.
F. Visibility of activities; control of emissions; disposal plan.
    1. All activities of medical marijuana dispensaries and cultivation facilities including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.
    2. No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.
    3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids, and other substances from exiting a dispensary or cultivation facility must be provided for at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items, and other substances in a safe, sanitary, and secure manner in accordance with all applicable federal, state, and local laws and regulations.
    4. All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related by products
G. Sale of edible products. No food products shall be sold, prepared, produced, or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
H. Other laws remain applicable. A medical marijuana dispensary 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 medical marijuana dispensaries, the stricter law or regulation shall control.

Section 18.07 Performance standards for marijuana establishments

Notwithstanding the provisions of 1 M.R.S.A 302 or any other law to the contrary, this section, when enacted, shall govern any proposed marijuana establishment for which an application has not been submitted and acted upon by the Planning Board prior to January 1, 2019.

A. Location criteria. No marijuana establishment shall be sited within 500 feet of the lot lines of any of the following:
    1. A public or private elementary, secondary, or post-secondary school
    2. A licensed child care facility

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3. Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center

The distance cited in this subsection shall be measured between the lot line of the proposed site for the marijuana establishment and the lot line of the site of the use listed above at their closest points.

B. A marijuana establishment may continue to operate in its present location as a pre-existing use if a use as listed in Section 18.07 A locates within the applicable buffer zone, however, the marijuana establishment does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana establishment near another use.
C. Size limitation. The plant canopy of a marijuana cultivation facility shall not exceed 10,000 square feet in area. A cultivation facility must comply with all building and life safety codes.
D. Separation of marijuana retail facilities. No marijuana adult use retail facility shall be sited within 300 feet of another marijuana retail facility as measured by the closest points between the storefronts.
E. Performance Standards related to :
    1. All activities of marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments are not permitted as outdoor sales or services of any kind.
    2. Odor Management. For all marijuana establishments the odor of marijuana must not be perceptible at the exterior of the building, at the premises, or at any adjoining use of the property. Marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Marijuana stores, marijuana manufacturing facilities, and marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are 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.
    3. Noxious gases and fumes. Marijuana manufacturing facilities and marijuana testing facilities shall include proper ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
    4. Sufficient measures and means of preventing smoke debris, dust, fluids, and other substances from exiting a marijuana establishment must be provided at all times.
    5. All marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related by products in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations. Dumpster and refuse 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 the public view. All trash receptacles on the premises used to discard 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

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receptacles. In addition all dumpsters and containers must comply with all other articles of the Land Use Code.

F. Security Requirements. Security measures at a marijuana establishment 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 condition
    3. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises
    4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Land Use Code
    5. Deadbolt locks on all exterior doors and locks or bars on any other access points

All security recordings shall be preserved for at least seventy-two (72) hours by the marijuana establishment. The marijuana establishment 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 City may provide notice of any operating problems associated with the establishment.

G. Sale of edible products. No food products shall be sold, prepared, produced, or assembled by a marijuana establishment except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

H. Drive through. Marijuana establishments are prohibited from having drive-through facilities. Retail sales of adult use marijuana shall only be made from within a retail establishment.

I. A marijuana establishment shall meet all operating and other requirements of State and local laws and regulations. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing marijuana or marijuana establishments, the stricter law or regulation shall control.

Section 18.08 Violations and Penalties

The operation of any marijuana establishment without the required local license or in violation of the requirements of this article shall be a violation of this article. Violations shall be subject to fines as set forth in this section. Each day of violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of Section 18.12 of this article. 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.

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Section 18.09 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.

Section 18.10 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 I, as may be amended. In the event of a conflict between the provisions of this article and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

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