

ARTICLE 12 . RETAIL MARIJUANA

A. PURPOSE

The purpose of this Article is to provide for and regulate the issuance of local licenses for retail marijuana establishments as permitted and licensed by the State of Maine under the Marijuana Legalization Act, 7 M.R.S.A. §§ 2441–2454, as may be amended. The purpose of this Article is also to prevent the location of such facilities in close proximity to residences, day care centers, schools, houses of worship, public parks or recreational areas, or another retail marijuana establishment. The purpose of this Article is not to prohibit retail marijuana establishments from operating in the Town, but rather to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

B. AUTHORITY

This Article is adopted pursuant to the authority granted by 7 M.R.S.A. § 2449, as may be amended from time to time.

C. DEFINITIONS

For purposes of this Article, the terms “retail marijuana establishment” shall have the same definitions as set forth in 7 M.R.S.A. § 2442, as may be amended. The term “retail marijuana establishment” shall include any “retail marijuana store,” “retail marijuana cultivation facility,” “retail marijuana products manufacturing facility,” and “retail marijuana testing facility,” as defined in 7 M.R.S.A. § 2442, as may be amended.

D. LICENSE REQUIRED

1. A retail marijuana establishment shall not operate until it (a) is licensed by the State licensing authority pursuant to the requirements of 7 M.R.S.A. § 2447, as may be amended; (b) receives Development Review approval from the Planning Board under Article 8; and (c) is licensed under this Article. An applicant may not operate a retail marijuana establishment without a State license, local license and all other necessary Town approvals.
2. A person or entity wishing to operate a retail marijuana establishment shall obtain an annual license (a) prior to opening the person or entity’s establishment, and (b) prior to the expiration of the person or entity’s current annual license. An application for the renewal of an expired license shall be treated as a new license application.
3. Subject to inspection by the CEO, Police Department and Fire Department for initial license and any renewal of license.
4. The application processing fee and annual license fee under this Article shall be as set forth in the Fee Schedule established by order of the Board of Selectmen. All license fees shall be paid annually.

E. APPLICATION; INVESTIGATION AND ISSUANCE OF LICENSE

1. Application. An applicant for a retail marijuana establishment license shall:
 - a. Complete and file an application prescribed by the Richmond Board of Selectman;
 - b. Deposit the annual license fee along with a processing fee in advance with the Town Clerk;
 - c. Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation or limited liability company, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers, directors, managers and employees;
 - d. File a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;
 - e. Furnish information with the application (i.e. date of birth and social security number) necessary to allow the Town to perform criminal background checks on the applicant and each officer, owner, manager or partner of the applicant;
 - f. Submit evidence of right, title or interest in the premises in which the retail marijuana establishment will be sited, along with the written consent of the owner of the premises for such use if the applicant is not the owner;
 - g. Submit proof of insurance with coverage limits meeting the requirements set forth in the application form; and
 - h. State the date of initiation of the retail marijuana establishment and the nature of the business with a description of the nature of all products and services that will be offered to customers.
 - i. Provide development review approval from the Planning Board under Article 8
2. Investigation of applicant, officers. Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:
 - a. The Town Clerk, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town officials referenced in subparagraphs (b) through (f) below. The Town Manager shall also immediately consult with the Chairman of the Select Board and then arrange for public notice of a public hearing on the application in a newspaper of general circulation in Sagadahoc County and by mail to owners of lots within 1,000 feet of the proposed location of the structure, at least ten (10) days prior to the public hearing before the Board of Selectmen. Notice of the public hearing shall also be posted on a sign in a conspicuous place on the premises identified in the local license application. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the application processing fee. After receipt of required reports from Town officials, the Town Manager shall forward the application and other documents to the Select Board for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Board of Selectmen and a decision shall be made within three (3) business days thereafter.

- b. The Health Officer, within fifteen (15) days of notice, shall inspect the location or proposed location to determine whether the applicable laws relating to health and safety have been satisfied and then report findings in writing to the Board of Selectmen;
 - c. The Fire Chief, within fifteen (15) days of notice, shall inspect the location or proposed location of the business to determine if applicable State and fire and safety regulations have been satisfied and then report findings in writing to the Board of Selectmen;
 - d. A constable or other law enforcement officer shall investigate the applicant, including the criminal history record information required under Section E.1.e, and then report findings in writing to the Board of Selectmen; and
 - e. The Code Enforcement Officer, within fifteen (15) days of notice, shall verify that the proposed premises of the establishment will comply with Section J of this Article and with all other applicable State and local laws and regulations and then report findings in writing to the Board of Selectmen.
3. Issuance of license.
- a. The Board of Selectmen, after notice and public hearing, shall determine whether the application and documents submitted comply with all requirements of this Article. The license shall be issued by the Board of Selectmen, based upon the record, including evidence and testimony at the public hearing, that the application meets the requirement of this Article.
 - b. Any licenses issued under this Article may not be transferred or assigned to a new owner. Any change in ownership or change in the officers of an owner shall require a new license.
 - c. Licenses are limited to the location of the premises 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.
 - d. The Board of Selectmen shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this Article or to address concerns about operations that may be resolved through the conditions. Such conditions may include, but are not limited to, restrictions on the hours of operation and requirements for security measures such as security cameras, locks, etc. The failure to comply with such conditions shall be considered a violation of the license.

F. STANDARDS FOR DENIAL

An application for a retail marijuana establishment license shall be denied by the Board of Selectmen in the following circumstances:

- 1. the applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;

2. the applicant is an individual who is less than 21 years of age;
3. the applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Board of Selectmen that is reasonably necessary to determine whether the license is issuable;
4. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a retail marijuana establishment license for knowingly making an incorrect statement of a material nature within the immediately preceding five (5) years;
5. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Article or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five (5) years;
6. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been convicted of a disqualifying drug offense. For purposes of this subparagraph, "disqualifying drug offense" means a conviction for a violation of a State or federal controlled substance law that is a crime punishable by imprisonment for five (5) years or more. "Disqualifying drug offense" does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten (10) or more years prior to application for licensure or an offense that consisted of conduct that is permitted under this Article;
7. the site on which the retail marijuana establishment is proposed is a prohibited site under Section J of this Article;
8. the applicant has failed to acquire all necessary State approvals and other required local approvals; or
9. the application in any other way fails to meet the requirements of this Article.

G. STANDARDS FOR SUSPENSION; REVOCATION

A license for a retail marijuana establishment may be suspended or revoked by the Board of Selectmen after notice and hearing upon a finding that the license has violated any provision of this Article.

H. AGE RESTRICTION

No retail marijuana establishment may permit any person less than 21 years of age on the premises in which the retail marijuana establishment is located. All managers and all employees of any retail marijuana establishment must also be at least 21 years of age.

I. DISPLAY OF LICENSE

A retail marijuana establishment or retail marijuana social club license shall display the retail marijuana establishment license at all times in an open and conspicuous place in the retail marijuana establishment for which the license has been issued. A retail marijuana establishment shall also display at all times in an open and conspicuous place in the retail marijuana establishment a complete list of the names of owners and officers of the retail marijuana

establishment and a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise or services offered by the business.

J. PROHIBITED SITES, SITE REQUIREMENTS

1. The location of any proposed retail marijuana establishment shall comply with the zoning requirements set forth in Article 4 of the Land Use Ordinance.
2. The location and operation of any retail marijuana establishment shall comply with the performance standards set forth in Article 5(AA) of the Land Use Ordinance.

K. ENFORCEMENT

The owner of the premises on or in which the retail marijuana establishment is located, who is not the licensee of the retail marijuana establishment, is jointly and severally liable with the licensee for any violation of this Article. The Article shall be enforced by the Code Enforcement Officer, in conjunction with the Board of Selectmen. In any court action, the Town may seek injunctive relief in addition to penalties. If court action is required to enforce this Article, the Town shall be awarded its enforcement costs, including its reasonable attorney's fees.

L. VIOLATIONS AND PENALTIES

The operation of any retail marijuana establishment without the required local license or in violation of any of the requirements of this Article shall be a violation of this Article. Violations shall be subject to fines in the amount of \$1,000.00 per violation. Each day of a 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 this Article.

M. SEVERABILITY

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

N. INDEMNIFICATION

1. By accepting a license issued pursuant to this Article, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that may result from any arrest or prosecution of business owners, operator, employees, clients or customers for a violation of State or federal laws, rules or regulations.
2. By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents and insurers 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 the retail marijuana establishment that is the subject of the license.

O. OTHER LAWS

Except as otherwise specifically provided herein, this Article incorporates the requirements and procedures set forth in the Marijuana Legalization Act, 7 M.R.S.A. §§ 2441-2454, as may be amended, and regulations promulgated thereunder. In the event of a conflict between the provisions of this Article and the provisions of the Marijuana Legalization Act or any other applicable State law or regulation, the more restrictive provision shall control.

P. APPEALS

An appeal from any final licensing, denial, suspension or revocation decision of the Planning Board or Board of Selectmen may be taken by an aggrieved party to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Q. EFFECTIVE DATE

This Article shall take effect as of November 8, 2017. However, no application for any license shall be accepted by the Town until the effective date of regulations promulgated and adopted by the State pursuant to 7 M.R.S.A. § 2444(2).

(END OF ARTICLE 12)