TOWN OF BRUNSWICK
MARIJUANA LICENSING ORDINANCE
Adopted by the Town Council on November 5, 2018
Effective January 1, 2019

Section 10-26 of the Town of Brunswick Code of Ordinances is hereby amended to add the following language, which shall be known and referred to as the Marijuana Licensing Ordinance:

(16) ***Marijuana Establishments***

a. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A(14) and 28-B M.R.S. § 402. The purpose of this Ordinance is to set forth procedures and standards for the issuance of local licenses for Marijuana Establishments in order to protect public health, safety and welfare.

b. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. All other terms used in this Ordinance, if not defined below, shall have the same definition as set forth in the Town of Brunswick Zoning Ordinance.

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

Local Licensing Authority shall mean the Town Clerk or, if referral to the Town Council is required pursuant to this Ordinance, the Town Council.

Marijuana Establishment shall mean a Cultivation Facility, Marijuana Store, Medical Marijuana Storefront, Products Manufacturing Facility or Testing Facility, all as defined in the Town of Brunswick Zoning Ordinance.

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/or has a controlling interest in a Marijuana 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.

Premises shall mean the physical location at which a Marijuana Establishment 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 Marijuana Establishments.

c. License Requirement

Effective January 1, 2019, a Marijuana Establishment shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this Ordinance.

d. Licensing Authority

All license applications, whether new or renewal, shall be reviewed and may be approved by the Town Clerk. Application shall be made 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. Prior to action on a license application, the Clerk 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 Brunswick at least seven (7) days prior to action.

e. Review Procedures

The review procedures described below shall be the same for initial license applications as well as renewals. 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.

i. The Town Clerk 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.

ii. The Licensing Authority shall have the authority to impose any conditions on a license that may be reasonably necessary to insurance compliance with the requirements of this Ordinance or to address concerns about operations. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.

iii. No license shall be granted by the Town Clerk until the Police Chief, 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 Clerk 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. The Town Clerk shall automatically include any conditions of approval recommended by the officials on the issued license.

iv. If any official consulted by the Town Clerk finds that a license application should not be approved, the application shall be forwarded to the Town Council for further review. The Town Council shall, upon review of all staff recommendations and applicable laws, make the final determination as to whether the license should be issued and/or any conditions to be attached.

v. Licenses shall be approved only for the type(s) of Marijuana Establishment(s) identified in the application. A Licensee who intends to expand or convert the licensed Premises to a type of Marijuana Establishment that is not specifically approved in a license must seek obtain a new license for that use.

vi. Any municipal official with authority to make recommendations, grant licenses or enforce this or other municipal ordinances regarding Marijuana Establishments shall have authority to enter the premises of an Applicant or Licensee without notice to make any inspection reasonably necessary to ensure compliance.

f. Application Submission Requirements

Each applicant for a Marijuana Establishment license shall complete and file an application on the form provided by the Town Clerk, together with the applicable license fee as well as the following supporting materials:

i. A copy of the Applicant's State License application and supporting documentation, as submitted to the State Licensing Authority.

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

iii. 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 Marijuana Establishment.

iv. 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.

v. A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license allowing the Town of Brunswick or its officials to obtain criminal records and other background information related to the individual.

vi. Evidence of all land use approvals or conditional land use approvals required to operate the Marijuana Establishment, including, but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy.

vii. Evidence of all other local approvals or conditional approvals required to operate the Marijuana Establishment, including any applicable food or victualer's license.

viii. A description of the premises for which the license is sought, including a plan of the premises.

If the Town Clerk 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 Clerk'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"). 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 forth in the Master Schedule of Revenues, Charges, Fees and Fines.

h. Denial, Suspension or Revocation of a License

A license application for a Marijuana Establishment shall be denied by the Licensing Authority, and an existing license may be suspended or revoked by the Town Council after notice and hearing, if the applicant, or any Owner of the applicant or Licensee:

i. Fails to meet the requirements of this Ordinance.

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 Marijuana Establishment 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 Marijuana Establishment.

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 Town Clerk 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:

i. Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.

ii. All licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Establishments in other than the licensed Premises, such as at farmer's markets, farm stands or kiosks.

iii. 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 Brunswick Police Department.

(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).

iv. Ventilation

(a) The licensed Premises shall comply with all odor and air pollution standards established by ordinance.

(b) All Marijuana Establishments shall have an odor mitigation system installed that has been approved by a Maine licensed engineer, indicating that the system will provide odor control sufficient to ensure that no odors are perceptible off the Premises.

v. Loitering

The facility owner/operator 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.

vi. A Marijuana Establishment 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 Marijuana Establishments that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

j. Transfer of Ownership or Change of Location

Licensees 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. Appeals

The following appeals may be decided by the Town Council upon a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law:

A. Appeal of the Town Clerk's denial of an application for lack of completeness.

B. Appeal by any aggrieved party having legal standing of any decision by the Town Clerk to grant a license under this Ordinance.

C. Appeal by the applicant of any permit granted by the Town Clerk with conditions to which the applicant/Licensee objects.

Appeals must be filed with the Town Clerk within thirty (30) days of the date of the decision subject to appeal. The Town Council shall hold the hearing on the appeal and render a decision within thirty (30) days of the date of the appeal, unless all parties consent to a delay.

Appeals of final determinations issued by the Town Council pursuant to this Ordinance shall be made to the Cumberland County Superior Court within thirty (30) days of the date of the decision being appealed.

l. Enforcement and Penalties

The operation of any Marijuana Establishment without the required license or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. The Brunswick Town Council or its designee shall enforce the provisions of this subsection. A violation of any provision of this subsection shall be a civil violation, and a civil penalty in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances shall be imposed, which shall accrue to the benefit of the Town of Brunswick. Each day that a violation continues will be treated as a separate offense. The Brunswick Town Council or its designee may also seek injunctive relief, where appropriate, and shall be awarded attorney fees and costs for prosecution of violations of this section. The Brunswick Town Council may also revoke or suspend the permit after notice and hearing.

m. 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.

n. Other Laws

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S. Chapter 1, 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 B

MASTER SCHEDULE OF REVENUES, CHARGES, FEES AND FINES

Chapter 10—Licenses and Business Regulations			
Sec. 10-26 (16) (f)		Marijuana Cultivation Facility	$600.00
		Marijuana Products Manufacturing Facility	$300.00
		Marijuana Social Club	Prohibited
		Marijuana Retail Store	$1,400.00
		Marijuana Testing Facility	N/A License not required
Sec. 10-26 (16)(g)		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	

[Emergency language – enacted on both emergency and regular basis]