

Town of Chelsea

Marijuana Business License Ordinance

February 16, 2023 | Adopted with Amendments

TOWN OF CHELSEA
MARIJUANA BUSINESS LICENSING ORDINANCE

A. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2429-D and 28-B M.R.S. § 401. The purpose of this Ordinance is to set forth procedures and standards for the issuance of local licenses for Marijuana Businesses in order to protect public health, safety and welfare.

B. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. Any term not defined herein shall be defined as specified in 22 M.R.S. § 2422 or 28-B M.R.S. § 102, as applicable.

Adult Use Marijuana Retail Store shall mean a facility licensed under Title 28-B M.R.S. Chapter 1 to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Applicant shall mean a person who has submitted an application for licensure as a Marijuana Business pursuant to this Ordinance.

Caregiver Retail Store shall mean a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

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 Ordinance.

Local Licensing Authority shall mean the Town Manager or, if appealed to the Board of Selectmen, the Board of Selectmen.

Marijuana Business shall include a Marijuana Cultivation Facility, Marijuana Products Manufacturing Facility, Marijuana Registered Dispensary, Adult Use Marijuana Retail Store, Caregiver Retail Store, or Marijuana Testing Facility.

Marijuana Cultivation Facility shall mean a facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package marijuana; to sell marijuana to products manufacturing facilities, stores and other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores. It shall not include a facility used for cultivation of marijuana for personal use pursuant to 28-B M.R.S. § 1502, or an area of less than 1,000 square feet used for cultivation of medical marijuana by a Caregiver or Qualifying Patient pursuant to 22 M.R.S. § 2423-A.

Marijuana Manufacturing Facility shall mean (1) a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in medical marijuana extraction pursuant to 22 M.R.S. § 2423-F; or (2) a facility licensed under 28-B M.R.S. § 201(3) to purchase adult use marijuana from a cultivation facility or another products manufacturing facility, to manufacture, label and package marijuana and marijuana products, and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities.

Marijuana Testing Facility shall mean a public or private laboratory that is authorized and accredited in accordance with state law for the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

Marijuana Registered Dispensary shall mean an entity registered under 22 M.R.S. § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Owner shall mean a person whose beneficial interest in a Marijuana Business 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 the Marijuana Business and/or has a controlling interest in the Marijuana Business.

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 Business 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 of Marijuana Businesses.

C. License Requirement

Effective upon enactment of this Ordinance, a Marijuana Business shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this

Ordinance.

D. Licensing Procedures

- (1) All license applications shall be submitted to the Town Manager 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.
- (2) Prior to action on a license application, the Town Manager 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 Chelsea at least seven (7) days prior to action.
- (3) The Town Manager 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.
- (4) No license shall be granted by the Town Manager until the Health Inspector and Code Enforcement Officer have each 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 Code Enforcement Officer shall also ensure that Fire Marshal review, where appropriate, is made and a report presented to the Town Manager. The Town Manager 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.
- (5) The Town Manager may include any conditions of approval recommended by reviewing officials, as well as any other reasonable conditions deemed in his or her discretion to be warranted, on the issued license. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.
- (6) Licenses shall be approved only for the type(s) of Marijuana Business(es) identified in the application. A Licensee who intends to expand or convert the licensed Premises to a type of Marijuana Business that is not specifically approved in a license must obtain a new license for that use. However, the Town Manager may approve the conversion of an active Caregiver Retail Store license to a Marijuana Registered Dispensary license, or vice versa, for the same term, upon written request from the Licensee and conditioned upon State approval of the Marijuana Registered Dispensary. In such case the Town Manager need not apply the review standards and procedures under this Ordinance except as to any material changes to the Premises or business operations.
- (7) Any Town official with authority to make recommendations under or enforce this or other municipal ordinances or state laws regarding Marijuana Businesses shall have authority to enter the premises of an Applicant or Licensee without notice to make any inspection reasonably necessary to ensure compliance.

(8) An Applicant wishing to appeal a denial or issuance of a renewal license by the Town Manager may do so by filing an appeal with the Board of Selectmen. The Board of Selectmen shall consider the permit on a *de novo* basis and shall have authority to grant or deny the license or to add or remove conditions of approval in its discretion. An applicant wishing to appeal the Board of Selectmen's denial or issuance of a license may do so by filing an appeal in Superior Court.

F. Application Submission Requirements

Each applicant for a Marijuana Business license shall complete and file an application on the form provided by the Town Manager, together with an applicable license fee as set by order of the Board of Selectmen. If two or more Marijuana Businesses are to be located on a single Premises, the Applicant shall pay the application fee for each type of business. The following supporting materials shall also be provided with the application:

- (1) A copy of the Applicant's State License application and supporting documentation, as submitted to the State Licensing Authority.
- (2) Evidence of all State approvals or conditional approvals required to operate the Marijuana Business, including, but not limited to, a State License as defined by this Ordinance, a State retail certificate, caregiver registration, or a State health license. If conditional approval has not yet been received by the State at the time of application, the Town License shall remain pending until evidence of conditional approval is received.
- (3) 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 Business.
- (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) A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license allowing the Town of Chelsea or its officials to obtain criminal records and other background information related to the individual.
- (6) Evidence of all land use approvals or conditional land use approvals required to operate the Marijuana Business, including, but not limited to building permit or certificate of occupancy.
- (7) Evidence of all other local approvals or conditional approvals required to operate the Marijuana Business, including any applicable food or victualer's license.
- (8) A description of the premises for which the license is sought, including a plan of the premises.

(9) Certification from a licensed Master Electrician indicating the electrical system of the Premises is adequate for the use being proposed. That use shall be clearly outlined in detail so that the Master Electrician's certification is easy to understand.

If the Town Manager 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 Town Manager'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") if a state license is required. 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 the Marijuana Business after the expiration date and until a license is granted. A late fee shall apply as set by the Board of Selectmen.

H. Denial, Suspension or Revocation of a License

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. The Licensing Authority may attach to any license conditions as necessary to address previous violations or documented complaints, or to ensure compliance with the requirements of this Ordinance.

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

- i. Fails to meet the requirements of this Ordinance or of any condition attached to the license.
- ii. Is not at least twenty-one years of age.
- iii. Has had a license for a Marijuana Business revoked.
- iv. Has a record of violations and/or documented complaints demonstrating lack of ability to responsibly and lawfully operate the Marijuana Business.
- 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 Business.
- 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 Licensing Authority 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:

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

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

(3) Safety and 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 Kennebec County Sheriff's office.

(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 spotlights with motion sensors covering the full perimeter of the building(s).

(4) Ventilation

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

(b) All Marijuana Businesses shall have an odor mitigation system installed that is sufficient to ensure that no odor of marijuana is detectible beyond the area controlled by the business, whether that be a lease or owned area that is a portion or all of a recorded parcel of land. The Code Enforcement Officer may request certification by a Maine licensed engineer that the odor control system is sufficient for these purposes.

(5) Loitering

The Licensee and all agents or employees 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.

(6) A Marijuana Business 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 Businesses that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

J. Transfer of Ownership or Change of Location

Licenses 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. 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.

L. Fees for Services:

Upon adoption of this Ordinance, the Board of Selectmen in their express authority shall be authorized to review and set the fees as they deem in the best interest of the Town of Chelsea.

M. Other Laws

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28 M.R.S. Ch. 1, and the Medical Use of Marijuana Act, 22 M.R.S. Ch. 558-C, 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.

N. Repeal of Prior Ordinance

Upon enactment of this Ordinance, the Town of Chelsea Medical Marijuana Retail Store Licensing Ordinance shall automatically be repealed.

APPENDIX A

MARIJUANA BUSINESS LICENSING ORDINANCE

SCHEDULE OF REVENUES, CHARGES, FEES AND FINES

Marijuana Cultivation Facility	
Tier 1	\$ 750.00
Tier 2	\$1,150.00
Tier 3	\$2,000.00
Tier 4	\$3,000.00
Marijuana Products Manufacturing Facility	\$1,250.00
Adult Use Marijuana Retail Store	\$2,000.00
Care Giver Retail Store	\$1,500.00
Marijuana Testing Facility	\$ 750.00
Marijuana Registered Dispensary	\$ _____
<p>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</p>	