

**CITY OF AUGUSTA
MEDICAL MARIJUANA BUSINESS LICENSING ORDINANCE**

Part 8, Article XI of the City of Augusta Code of Ordinances is hereby amended to add the following language, which shall be known and referred to as the Medical Marijuana Business Licensing Ordinance:

Part 8 Medical Marijuana Businesses

Article XI Licensing

§ 190-100 Medical Marijuana Businesses

A. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001 and 22 M.R.S. § 2429-D. 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. All other terms used in this Ordinance, if not defined below, shall have the same definition as set forth in Section 300-202 of the City Code.

Applicant shall mean a person who has submitted an application for licensure as a Medical Marijuana Business 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 City Clerk or, if referral to the City Council is required pursuant to this Ordinance, the City Council.

Medical Marijuana Business shall include Medical Marijuana Testing Facility, Medical Marijuana Manufacturing Facility, Medical Marijuana Retail Store, Medical Marijuana Registered Caregiver (home occupation), or Registered Dispensary.

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

C. License Requirement

Effective **October 1, 2019**, a Medical Marijuana Business shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this Ordinance. No business other than a Medical Marijuana Registered Caregiver (home occupation) shall be permitted to operate in the City of Augusta prior to October 1, 2019.

D. Licensing Procedures

- (1) All license applications shall be submitted to the City Clerk in writing using a form prepared by the City 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 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 city of Augusta, as well as on the City's website, at least seven (7) days prior to action.
- (3) The City 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 City officials as required.
- (4) No license shall be granted by the City Council until the Police Chief, Fire Chief, Health Inspector and Code Enforcement Officer have all indicated no objections regarding the Applicant's ability to comply with this Ordinance or any other applicable City ordinance or state or federal law enforced by such officials. The City 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.
- (5) The City Council may include any conditions of approval recommended by reviewing officials, as well as any other reasonable conditions deemed in the Council's 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 Medical Marijuana Business(es) identified in the application. A Licensee who intends to expand or convert the licensed Premises to a type of Medical Marijuana Business that is not specifically approved in a license must obtain a new license for that use.

(7) Any City official with authority to make recommendations under or enforce this or other municipal ordinances regarding Medical 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. This inspection authority shall not apply to the City Clerk or City Council.

(8) For renewal licenses, the application and review process shall be the same as for initial licenses, except that the City Clerk shall serve as the licensing authority unless any reviewing official recommends that existing conditions be added to or changed, or that the application be denied, in which case the application will be forwarded to the City Council for final action.

(9) An applicant wishing to appeal a denial or issuance of a renewal license by the City Clerk may do so in accordance with Section 190-6 of the City Code. An applicant wishing to appeal a denial or issuance of a new or renewal license by the City Council may do so by filing an appeal in Superior Court.

F. Application Submission Requirements

Each applicant for a Medical Marijuana Business license shall complete and file an application on the form provided by the City Clerk, together with the applicable license fee **as set forth in the schedule of fees approved by the City Council.** If multiple types of Marijuana Businesses are to be conducted 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 a Medical Marijuana Business, including, but not limited to, a State License as defined by this Ordinance, a State retail certificate, or a State health license.
- (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 Medical 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. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.

(5) A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license allowing the City of Augusta 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 Medical Marijuana Business, including, but not limited to building permit, conditional use approval, change of use permit and/or certificate of occupancy.

(7) Evidence of all other local approvals or conditional approvals required to operate the Medical Marijuana Business, including any applicable food or victualer's license. Section 199 of the City Code (the "Food Sovereignty Ordinance") does not apply to Medical Marijuana Businesses.

(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.

(10) If the City 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; Limit on Medical Marijuana Retail Stores

(1) Each license issued under this Ordinance shall be valid for the term of license granted by the State License Authority, if a state license is required. If no state license is required, the license shall be valid for two years from the date of issuance ("the license term"). Applications for renewal licenses shall be submitted at least 60 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.

(2) There shall be no more than fifteen (15) active licenses for Medical Marijuana Caregiver Retail Stores and no more than five (5) active licenses for Registered Dispensaries at any given time. Applications shall be assigned priority according to the date and time an application meeting the submission requirements of this Ordinance was received by the City Clerk. Once the numerical limit of licenses for a license category has been reached, additional applications will be held on a waiting list and processed according to their respective priority as licenses become available. If a Licensee fails to timely submit a renewal license application by the deadline set forth in subsection (1), the prior license shall become available to those on the waiting list upon its expiration date. If a license for the business category becomes available, the City Clerk shall notify the first applicant on the waiting list and that applicant shall have ten (10)

business days to provide the applicable application fee and any updated information to the City Clerk. If the application fee is not timely provided the City Clerk shall process the next application on the list.

H. Denial, Suspension or Revocation of a License

In reviewing license applications, the Licensing Authority and any consulting City 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.

A license application for a Medical Marijuana Business shall be denied by the licensing authority (City Clerk or City Council), and an existing license may be suspended or revoked by the City 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 or of any condition attached to the license.
- 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 Medical Marijuana Business or adult use "marijuana establishment" as defined by 28-B M.R.S. § 102(29) revoked by the City 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 Medical Marijuana Business or of any adult use "marijuana establishment" as defined by 28-B M.R.S. § 102(29).
- 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 City 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:

- (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 Medical 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 City of Augusta 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).

(d) Registered Caregiver (home occupation) uses shall not be required to meet paragraphs (b) and (c).

(4) Ventilation

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

(b) All Medical Marijuana Businesses shall have an odor mitigation system installed that is sufficient to ensure that no odor of marijuana is detectable 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 Medical 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 Medical 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

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. Violations and Penalties

Any Medical Marijuana Business which is found to be operating without a valid license in accordance with this Ordinance, or which is found to have violated the approval and operating requirements set forth in Section I of this Ordinance shall be found to have committed a civil violation. For failure to obtain or maintain a valid license, the penalty shall start at twice the applicable license fee and shall be increased by \$10 for each day of the violation. For failure to meet any other requirements of this Ordinance or any condition of the license, the penalty shall be \$100 for each day of the violation.

L. Appeals

Appeals of the granting or denial of a license under this Ordinance shall be appealable to the Kennebec County Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. There shall be no appeal of other decisions made or orders issued in the enforcement or administration of this Ordinance.

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 Medical Use of Marijuana 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 A

MARIJUANA BUSINESS LICENSING ORDINANCE

SCHEDULE OF REVENUES, CHARGES, FEES AND FINES

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| Medical Marijuana Cultivation Facility | \$ 600.00 |
| Medical Marijuana Manufacturing Facility | \$ 600.00 |
| Medical Marijuana Retail Store | \$ 1,400.00 |
| Medical Marijuana Testing Facility | \$ 300.00 |
| Medical Marijuana Caregiver (home occupation) | \$ 200.00 |
| 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 | |