

Article 34: Shall an ordinance entitled “2022 Town of Oxford Marijuana Facility Licensing Ordinance to Establish a Marijuana Licensing Program and 2022 Amendments to the Oxford Zoning Ordinance to Repeal Provisions Related to Marijuana Facilities” be enacted?

[The proposed ordinance amendments are available for review and inspection at the Town Clerk’s Office and will be available at the Town Meeting.]



DRAFT

Town of Oxford
Marijuana Facility Licensing Ordinance

Section 1 - Title.

This Ordinance shall be known and may be cited as the “Marijuana Facility Licensing Ordinance.”

Section 2 - Purpose; authority; interpretation.

The purpose of this Ordinance is to provide for and regulate the issuance of local licenses for Marijuana Facilities in the Town of Oxford. Such licensing shall provide for annual review of and reasonable control over the operations of Marijuana Facilities and to ensure that life safety and nuisance concerns are properly addressed.

This Ordinance is adopted pursuant to the Town of Oxford’s home rule authority, under Art. VIII, Part Second of the Maine Constitution, and 30-A M.R.S. § 3001. This Ordinance is also adopted consistent with the Town’s statutory authority pursuant to 22 M.R.S. § 2429-D and 28-B M.R.S. § 401, as those provisions may be amended or recodified.

This Ordinance does not, and shall not be interpreted to limit the rights and privileges afforded by the Maine Medical Use of Marijuana Act, 22 M.R.S. § 2421, et seq.

Section 3 - Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated:

Adult Use Marijuana Facility: An Adult Use Marijuana Cultivation Facility, Adult Use Products Manufacturing Facility, Adult Use Marijuana Store, or Adult Use Testing Facility, as those terms are defined in Section 20 of the Zoning Ordinance, as may be amended.

Disqualifying Drug Offense: A “disqualifying drug offense,” as that term is defined in 22 M.R.S. § 2422(4) or 28-B M.R.S. § 102(15), as either provision may be amended or recodified.

Fee Schedule: The Town of Oxford Fee Schedule, as adopted by the Select Board and as may be amended.

Licensed Premises: The parcel of property, *i.e.*, a lot on the Tax Maps of the Town of Oxford, where a Marijuana Facility is licensed to operate, consistent with a Marijuana Facility License issued by the Select Board under this Ordinance.

Marijuana Facility: A Marijuana Facility, as that term is defined in Section 20 of the Zoning Ordinance, as may be amended. For the avoidance of doubt, a “Marijuana Facility” includes both Adult Use Marijuana Facilities and Medical Marijuana Facilities.

Medical Marijuana Facility: A Medical Marijuana Caregiver Facility, a Medical Marijuana Manufacturing Facility, a Medical Marijuana Testing Facility, a Medical Marijuana Caregiver Retail Store, or a Registered Dispensary.

Section 4 - Effective date; initial licensing application deadline.

This Ordinance shall be effective upon adoption by Town Meeting. All Marijuana Facilities operating within the Town of Oxford on the effective date of this Ordinance shall submit licensing applications to the Town Clerk within ninety (90) days of the effective date. Failure to do so shall subject a Marijuana Facility to potential enforcement action and civil penalties, as detailed in Section 12 of this Ordinance. Marijuana Facilities licenses, obtained prior to the effective date of this ordinance, remain valid until their expiration and will be governed by this ordinance upon renewal.

Section 5 - License required; application procedure.

A. Beginning on the effective date of this Ordinance, no Marijuana Facility may operate within the Town of Oxford without first receiving a Marijuana Facility License from the Select Board in a manner consistent with the procedures and requirements of this Ordinance. The operation of, or performance of conduct consistent with, a Marijuana Facility without first receiving a Marijuana Facility License from the Select Board shall be considered a violation of this Ordinance, subjecting the violating party to civil fines and other penalties as further outlined herein. Pursuant to 28-B M.R.S. § 301 and § 502, an applicant seeking to operate an Adult Use Marijuana Facility may submit an application for a license concurrent with an application for a conditional license by the State of Maine to operate an Adult Use Marijuana Facility.

B. The Select Board shall be empowered to issue licenses to individuals or businesses to operate as Marijuana Facilities in the Town of Oxford. Any applications presented to the Select Board for consideration shall bear the recommendation for approval or denial, with reasons noted, of the Code Enforcement Officer, the Police Chief and the Fire Chief, and such other department heads as may be required by the Select Board or under other Town ordinances. Marijuana Facility Licenses issued under this Ordinance shall be reviewed and approved, approved with conditions, or denied at a Select Board meeting to be held following public notice and public hearing.

C. Applications for a license required by this Ordinance shall be procured from the Town Clerk, completed and signed by the applicant, and filed with the Town Clerk. If the applicant is an individual, the individual must sign the application for a license. If the applicant is a business entity, each person who has an interest in the business must sign the application for a license as co-applicants. Applications for new or renewal Marijuana Facility Licenses shall be accompanied by a non-refundable application fee in an amount set forth in the Fee Schedule. Such applications shall contain the following:

- (1) If the applicant is an individual, the individual shall state their legal name, any aliases, and mailing address, and shall submit a copy of a driver's license or other proof that they are at least twenty-one (21) years of age. If the applicant is a business entity, the applicant shall identify each person who has an interest in the business by complete name, and submit proof that all such persons are at least twenty-one (21) years of age.

- (2) Evidence of state registration and other approvals (if any) required to operate as a Marijuana Facility, including but not limited to a caregiver registration card, dispensary registration, and/or a conditional license for Adult Use Marijuana Facilities issued by the Maine Office of Marijuana Policy.
- (3) If the applicant is a business entity, a description of the form of ownership of the business enterprise together with attested copies of 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 Facility operation, along with proof that the business is in good standing and authorized to do business in the State of Maine.
- (4) The identities of 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, and if any such person has been convicted of a crime under State and/or federal law, they must list the specified criminal activity involved, and the date, place, and jurisdiction of each conviction.
- (5) The location of the proposed Marijuana Facility, including a legal description of the property, street address and phone number.
- (6) Evidence of all land use approvals or conditional land use approvals required to operate a Marijuana Facility pursuant to the Town of Oxford Zoning Ordinance, including but not limited to, a building permit, a site plan approval, and/or a certificate of occupancy.
- (7) Evidence of sufficient right, title or interest demonstrating possession or entitlement to possession of the proposed Licensed Premises, including without limitation a deed, lease, rental agreement, purchase and sale agreement or other arrangement for possession of the Licensed Premises. If the proposed Licensed Premises is not owned by the applicant, then a signed letter of approval from the proposed Licensed Premises' owner shall be provided.
- (8) A detailed visual depiction of the proposed Licensed Premises, including building footprint, interior layout with floor space to be occupied by the Marijuana Facility, and parking plan.
- (9) For Marijuana Facilities operating as stores, a narrative explaining how the applicant will ensure that the store will not sell, give, distribute or deliver marijuana or marijuana products to persons who are under the age of twenty-one (21) or to persons who appear to be under the influence of alcohol, inhalants, or other controlled substance.
- (10) For Marijuana Facilities operating as stores, a narrative explaining how marijuana and marijuana products will be displayed and sold.
- (11) A copy of a Town of Oxford tax map depicting: (1) the subject property lines, (2) the property lines of any preexisting public or private school within 1,000 feet, (3) the property lines of any licensed daycare facility, methadone clinic, Marijuana Facility within 500 feet, (4) the property lines of any private residence, church or other religious house of worship within 300 feet.

(12) An operations plan that, at a minimum, addresses the following:

- (a) hours of operation
- (b) safety/security
- (c) wastewater;
- (d) disposal of waste;
- (e) ventilation and odor; and
- (f) parking.

(13) All other information necessary for the applicant to demonstrate compliance with all performance standards imposed by Section 21 of the Zoning Ordinance.

(14) If the applicant holds any other permits/licenses under this Ordinance or other marijuana-related license from another town, city, or state, the applicant shall provide the names and locations of such other permitted/licensed businesses.

(15) If the applicant (either individually or as a member of a business entity) has had a previous license issued by the Town under this Ordinance, or by any other town, city or state, denied, suspended or revoked, they must describe the circumstances involved, including the name and location of the facility for which the license was denied, suspended or revoked, the date of the denial, suspension or revocation, and the grounds for the denial, suspension or revocation.

D. Marijuana Facility License applicants submitting applications and supporting information that is confidential under 22 M.R.S. § 2425-A(12), as may be amended or recodified, and the Maine Freedom of Access Act, 1 M.R.S. § 403(3)(F), as may be amended, shall mark such information as confidential.

Section 6 - Public hearing; granting license; term; renewal.

A. The Select Board shall hold a public hearing within sixty (60) days of receipt of a complete application, as determined by the Town Clerk, for the purpose of determining whether the applicant has satisfied all applicable licensing criteria as set forth in this Ordinance, and if so, shall authorize the issuance of a Marijuana Facility License, with or without conditions. At such a public hearing, the testimony of the applicant and that of any interested members of the public shall be taken.

B. Following a public hearing, the Select Board shall consider the application and determine whether the application is consistent with all provisions of this Ordinance, as well as all other applicable provisions of the Zoning Ordinance and any other applicable ordinances. In line with this determination, applications for licensure shall be granted, granted with conditions, or denied by the Select Board. Conditions may be imposed on any Marijuana Facility License issued pursuant to this Ordinance as deemed necessary by the Select Board to protect the health, safety, and welfare of the public and to achieve the goals and objectives of this Ordinance.

C. A Marijuana Facility License shall be valid for a period of one (1) year from date of issuance and must be renewed annually.

D. Applications for renewal of existing Marijuana Facility Licenses shall include all materials required by Section 5 of this Ordinance and shall be subject to all provisions of this Ordinance. Applications for the renewal of a Marijuana Facility License shall be submitted to the Town Clerk at least sixty (60) days prior to the expiration of the existing license and shall be considered by the Select Board in the manner prescribed for initial license applications in this Section. In considering applications for renewal of existing Marijuana Facility Licenses, the Select Board shall also consider any and all fire, EMS, and/or police reports, as well as all code enforcement complaints and notices of violation (if any), related to the Licensed Premises created during the previous licensing term.

Section 7 - License performance standards.

The following performance standards are applicable to all licensed Marijuana Facilities operating within the Town of Oxford:

A. All Marijuana Facilities shall comply with all applicable State and local laws, ordinances and regulations.

B. No Marijuana Facility License may be granted or renewed by the Select Board, and no Marijuana Facility may operate after issuance of a Marijuana Facility License, except in compliance with the performance standards contained in Section 21 of the Zoning Ordinance. Such performance standards shall automatically be incorporated into all Marijuana Facility Licenses granted by the Select Board as conditions of approval.

C. All Adult Use Marijuana Facilities shall obtain a State of Maine conditional license prior to operating in the Town of Oxford. Any Registered Caregivers, Registered Dispensaries or other individual/entity applying to operate Medical Marijuana Facilities must possess current registrations or licenses required by the State of Maine prior to applying for licensure from the Town of Oxford, and must provide copies of said registrations and/or licenses to the Town as part of its application.

Section 8 - Insurance; indemnification.

A. Each licensed Marijuana Facility shall procure and maintain occurrence-based commercial general liability insurance coverage in the minimum amount of \$1,000,000 per occurrence / \$2,000,000 aggregate for bodily injury, death, and property damage. Such coverage shall not include any bodily injury or property damage restrictions or exclusions associated with cultivation or sale of medical marijuana.

B. Evidence of insurance required herein shall be a condition of the issuance of any Marijuana Facility License under this article, and shall be submitted to the Town as part of the applicant's license application. Certificates shall guarantee ten days' notice to the Town of termination of insurance or any material change from the insurance provider or agent. The Town's acceptance or lack of such evidence shall not be construed as a waiver of the applicant's obligation to obtain and maintain such insurance as required by this Ordinance.

C. By accepting a Marijuana Facility License from the Town, the Marijuana Facility knowingly and voluntarily waives, releases, and discharges the Town from all claims, causes of action and demands, both known and unknown, which it has ever had, or may have against the Town, officers, agents, employees, representatives, insurers, successors, and assigns for any injuries, damages or

liabilities, resulting from the arrest, prosecution or other consequence of the Marijuana Facility or its parties of control for a violation of local, state or federal laws, rules or regulations. By accepting a license issued pursuant to this Ordinance, the Marijuana Facility agrees 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 a Marijuana Facility licensed under this Ordinance.

Section 9 - Inspections.

- A. A Marijuana Facility and its agents and employees shall, at any reasonable time, permit inspection of the Licensed Premises by agents or employees of the Town if necessary to ensure compliance with the provisions of this Ordinance or any other applicable portion of local ordinance or State law.
- B. All Registered Caregivers shall provide to the Town a copy of all registered caregiver cards issued to any and all officers, managers, and/or employees, and shall update the same annually.
- C. A Marijuana Facility shall submit emergency contact information to the Police Department.
- D. A Marijuana Facility and its agents and employees shall submit to an annual inspection by the Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access. Knox Boxes shall be obtained and installed in coordination with the Fire Department.

Section 10 - Decision on licensing application; revocation of license.

- A. The Select Board shall, after notice and hearing, deny, suspend or revoke a Marijuana Facility License issued under this Ordinance if the Marijuana Facility, or any of the Marijuana Facility's officers, members, directors, or partners:
 - (1) Has failed to demonstrate compliance, or failed to maintain compliance, with all requirements of this Ordinance, with any other ordinance of the Town of Oxford (including the Zoning Ordinance), or with any applicable provision of state law or administrative regulation, including but not limited to 22 M.R.S. § 2421, et seq., or 28-B M.R.S. § 101, et seq., as may be amended or recodified;
 - (2) Has had a license for a Marijuana Facility issued under this Ordinance, or any other applicable State or local approval, suspended or revoked;
 - (3) Has failed to acquire and/or maintain all necessary State and local approvals necessary for the operation of the Marijuana Facility, including, but not limited to, a caregiver registration (if applicable).
 - (4) Has been convicted of a Disqualifying Drug Offense;

(5) Has provided false or misleading information in connection with the license application; or

(6) Has, after receiving written notice and demand, refused to allow the Licensed Premises to be inspected for compliance with this Ordinance, or has otherwise interfered with a Town officer, official, or employee's performance of their official duties.

B. Any applicant requesting a Marijuana Facility License from the Select Board shall be notified in writing of the Select Board's decision no more than fourteen (14) calendar days from the date of the Select Board's decision. In the event that a license application is denied, or is granted with conditions, the written decision shall provide the reasons for the denial or the conditional approval. The applicant may not reapply for a Marijuana Facility License for a premises within thirty (30) days after an application has been denied for that location.

Section 11 - Appeals.

Any aggrieved party may appeal a decision of the Select Board under this Ordinance to grant, grant with conditions, deny, suspend, or revoke a Marijuana Facility License, to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure within thirty (30) days of the date of the decision.

Section 12 - Violations and penalties.

The Town of Oxford, through its Code Enforcement Officer, shall enforce any violations of this Ordinance, including operation of any Marijuana Facility without a license, failure to comply with any conditions to a license, and refusal by a Marijuana Facility to permit inspection of a Licensed Premises. In addition to revocation and/or suspension of a Marijuana Facility License as provided in this Ordinance, any violations of this Ordinance shall be subject to a minimum fine of \$100.00 per day and a maximum fine of \$2,500.00 per day, pursuant to 30-A M.R.S. § 4452. Each day that a violation remains constitutes a separate violation. The Select Board, or its authorized agent, is authorized to initiate legal proceedings in Maine District Court to enjoin the unlawful operation of a Marijuana Facility, as provided in this Ordinance. If the Town is the prevailing party in such proceedings, the Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

Section 13 - Waivers.

The Select Board may, in its discretion, waive any of the requirements under Section 5 of this Ordinance if it finds the submittal of certain materials is unnecessary or irrelevant to the review of a particular Marijuana Facility License application.

Section 14 - Transfer of license.

A Marijuana Facility License may not be assigned or transferred to another person or entity. Any change in ownership or change in officers of the Marijuana Facility requires a new license. The new owners of any Marijuana Facility, as defined in this Ordinance, shall apply to the Select Board for a new license prior to beginning operation. Marijuana Facility Licenses are limited to the premises for which they are issued and are not transferable to any other property. Any owner of a licensed

Marijuana Facility who desires to relocate to a new location shall apply to the Select Board or its designee for a new license and, if approved, shall relinquish its license for the previous location.

Section 15 - Validity and severability.

Should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Section 16 - State law.

In the event the State of Maine adopts any law or regulation governing Marijuana Facilities that conflicts with any provision of this Ordinance or the Zoning Ordinance, the stricter regulation shall control. Compliance with all applicable State laws and regulations shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with State laws or regulations shall be grounds for revocation or suspension of any license issued hereunder.

Adopted June ____, 2022.

2022 Oxford Zoning Ordinance Amendments to Repeal Provisions Related to Marijuana Facilities

Amend Section 21 of the Oxford Zoning Ordinance, regarding Marijuana Facilities licensing, as set forth below (additions are underlined and deletions are ~~struck out~~):

Section 21. Medical Marijuana Registered Dispensaries, and Medical and Adult Use Stores, Marijuana Cultivation, Testing, Manufacturing and Extraction Facilities

• • •

I. The operators of Marijuana Facilities shall obtain an annual business license per the Marijuana Facility Licensing Ordinance~~from the Selectmen after a successful inspection has been conducted and fee paid.~~

- ~~1. Application and license fees. All applications must be submitted with a \$500.00 fee. If an application is approved, the following license fees must be paid before the town will issue a license:~~
- ~~2. Marijuana store. Annual operation license fee: \$5,000.00.~~
- ~~3. Marijuana manufacturing facility. Annual operation license fee: \$2,500.00.~~
- ~~4. Marijuana testing facility. Annual operation license fee: \$2,500.00.~~
- ~~5. Adult use marijuana cultivation:~~
- ~~6. Tier 1. 0—500 square feet of plant canopy—Annual permit/licensing fee: \$1,000.00.~~
- ~~7. Tier 2. 501—2,000 square feet of mature plant canopy—Annual license fee: \$1,500.00.~~
- ~~8. Tier 3. 2,001—7,000 square feet of mature plant canopy—Annual license fee: \$2,500.00.~~
- ~~9. Tier 4. Greater than 7,000 square feet of mature plant canopy—Annual license fee: \$5,000.00.~~
- ~~10. Medical marijuana cultivation. Annual operation license fee: \$1,000.00.~~
- ~~11. Adult use marijuana nursery cultivation. Annual license fee: \$1,000.00.~~
- ~~12. Renewal applicants for adult use marijuana cultivation licenses may seek an increase to a higher tier if they comply with the requirements in this section.~~

• • •