

**Order**  
**of the Bar Harbor Town Council**  
**for the November 8, 2022 Town Meeting**

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

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**WARRANT ARTICLE**

**Article XX CITIZENS' PETITION FOR ADULT USE MARIJUANA STORE LICENSING ORDINANCE** — Shall an ordinance dated August 16, 2022 and entitled "an Adult Use Marijuana Store Licensing Ordinance, allowing for the licensing of retail marijuana stores in zoning districts in which retail is an allowed use," be enacted?

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**SUMMARY**

The purpose of this ordinance is to license a maximum of two (2) adult use marijuana stores in Bar Harbor, pursuant to the Maine Marijuana Legalization Act.

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**EXPLANATION**

This ordinance licenses adult use marijuana stores. It does not allow for cultivation, manufacturing or testing facilities. It allows for up to two adult use marijuana stores in Bar Harbor. Such stores must be operated from a permanent location. Sales may not include the use of vending machines, drive-through/drive-up windows, or delivery services.

Adult use marijuana stores cannot be located within 1,000 feet of the property line of a pre-existing public or private school serving children from prekindergarten to grade 12.

Two licenses, one from the State of Maine and one from the Bar Harbor Town Council, must be secured in order to operate an adult use marijuana store in the Town of Bar Harbor. The processing fee for the town's license is \$250 and the fee for the town license itself is \$1,250. Applicants who wish to operate an adult use marijuana store must be at least 21 years of age and a resident of the State of Maine. Applicants must divulge if they hold, have held, and/or have had any such licenses or similar licenses denied, suspended, or revoked from any town, city, or state. If a licensed adult use marijuana store is sold, the purchaser would be given preference to obtain a new license and continue operations.

Adult use marijuana stores may be open for business only between the hours of 10:00 a.m. and 8:00 p.m. Security measures must include security surveillance cameras and an alarm system. Emergency contact information must be provided to the Bar Harbor Police Department.

Any person, including but not limited to, an adult use marijuana store owner, a property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this ordinance, or fails to comply with any of its requirements, shall be penalized in accordance with 30-A M.R.S. §4452.

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**Enactment of Chapter 8  
ADULT USE MARIJUANA STORE LICENSING**

*The Town of Bar Harbor hereby ordains the enactment of Chapter 8 to the Town Code:*

**Chapter 8, Adult Use Marijuana Store Licensing**

**§8-1. Purpose.**

It is the purpose of this chapter to authorize and regulate adult use marijuana stores pursuant to the Maine Marijuana Legalization Act, 28-B M.R.S. Chapter 1.

Persons or entities wishing to establish an adult use marijuana store within Bar Harbor shall first obtain a license from the Bar Harbor Town Council (hereinafter "the Municipal Officers") and shall be subject to the provisions of this chapter.

**§8-2. Definitions.**

Unless otherwise stated, all terms in this chapter shall be defined as set forth in 28-B M.R.S. § 102.

**§8-3. License Required.**

No person may establish, operate, or maintain a marijuana store without first obtaining a license from the Municipal Officers pursuant to this chapter.

It is a violation of this chapter for any person to operate an adult use marijuana store within Bar Harbor without a valid adult use marijuana business license issued by the State pursuant to State adult use marijuana laws and regulations.

Pursuant to 28-B M.R.S. § 402, the Town authorizes up to two (2) marijuana stores to be licensed. Cultivation, manufacturing, and testing facilities are not authorized. Whenever a license

expires and is not renewed, or the Town declines to renew a license, other license applications may be reviewed, but the two-license cap on marijuana stores shall be maintained.

In the event of the proposed sale of a marijuana store, the prospective purchaser shall be given preference to obtain a new license to replace the seller's license within sixty (60) days prior to the date of the sale. The prospective purchaser shall file an application with fee and provide all the information required in this Chapter. If the application is approved, the Municipal Officers shall specify that the license is contingent on the sale being completed and the Town's receipt of license fees.

All adult use marijuana stores must be operated from permanent locations, which may utilize telephone and internet orders only if the buyer, within twenty-four (24) hours, pays for and picks up such orders in the store.

Adult use marijuana stores may not use vending machines for sales, may not have "drive through" or "drive-up" window-serviced sales, and may not have internet-based sales with credit/debit card payment and delivery by USPS, UPS, FedEx, DHL, or any other global or local delivery service or courier.

#### **§8-4. Application Procedure.**

- A. An application for a license must be made on the form provided by the Town. If the applicant who wishes to operate an adult use marijuana store is a single individual, this person must sign the application for a license. If the applicant who wishes to operate an adult use marijuana store is more than one individual, each person who has an interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.
- B. Application and License Fees: All applications must be submitted with a \$250 processing fee. If an application is approved, the licensee will pay a marijuana store license fee of \$1,250 before the Town will issue the license.
- C. Submission requirements for an application to establish an adult use marijuana store:
  - (1) If the applicant is an individual: The individual shall state their legal name and any aliases, and submit proof that they are at least twenty-one (21) years of age.
  - (2) If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.

- (3) If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.
- (4) If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.
- (5) If the applicant intends to operate the adult use marijuana business under a name other than that of the applicant, they must state the business' name and submit the required registration documents.
- (6) If the applicant or a potential employee has been convicted of criminal activity under State and/or federal law, they must list the specified criminal activity involved, and the date, place, and jurisdiction of each conviction.
- (7) If the applicant has had a previous license under this chapter or other similar marijuana business ordinances from another town, city, or state denied, suspended or revoked, they must list the name and location of the marijuana business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is licensed under this chapter, whose license has previously been denied, suspended or revoked, listing the name and location of the marijuana business for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation. If the applicant holds any other licenses under this chapter or other similar marijuana business ordinance from another town, city, or state and, if so, the names and locations of such other licensed businesses must also be provided.
- (8) The location of the proposed adult use marijuana store, including a legal description of the property, street address, and telephone number.
- (9) The applicant's mailing address and residential address.
- (10) Recent passport-style photograph(s) of the applicant(s).
- (11) The applicant's driver's license and Social Security numbers.

- (12) A sketch showing the configuration of the subject premises, including building footprint, interior layout with floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.
- (13) A copy of a Town Tax Map depicting the subject property lines and the property lines of any preexisting private or public school within one thousand (1,000) feet of the subject property.
- (14) Some portions of applications for an adult use marijuana store license shall be kept confidential by the Town and used for administrative purposes only due to sensitive information contained therein such as Social Security numbers, etc., as allowed by FOAA (Freedom of Access Act).

#### **§8-5. Licensing Standards.**

- A. The applicant must be qualified to operate a marijuana store based on the information submitted under section 4(C)(1-7) above.
- B. Adult use marijuana stores may be open for business only between the hours of 10:00 a.m. and 8:00 p.m.
- C. Security measures at all adult use marijuana stores shall include, at a minimum, the following:
  - (1) Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with forty-five (45) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and
  - (2) Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and
  - (3) Secure containers (with locks) that are suitable for storage of all marijuana, marijuana products, and cash stored overnight on the licensed premises; and
  - (4) Exterior lighting that illuminates the exterior walls of the licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable provisions of the lighting performance standards in the Bar Harbor Zoning Ordinance; and

- (5) Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and
- (6) Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

**§8-6. Right of Access/Background Check/Inspection.**

Every adult use marijuana store shall allow law enforcement officers to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this chapter. Every owner and employee of an adult use marijuana business applying for a license shall submit emergency contact information to the Bar Harbor Police Department.

**§8-7. Indemnification.**

By accepting a license issued pursuant to this chapter, 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 result from any arrest or prosecution of any adult use marijuana store owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations.

By accepting a license issued pursuant to this chapter, the licensee 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 permitted/licensed adult use marijuana store.

**§8-8. State Law.**

In the event the State of Maine adopts any additional or stricter law or regulation governing adult use marijuana stores, the additional or stricter regulation shall control the establishment or operation of any adult use marijuana store in Bar Harbor.

Compliance with 28-B M.R.S. Chapter 1, State laws and regulations pertaining to medical marijuana, and any other applicable State laws or regulations shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with 28-B M.R.S. Chapter 1 and any other applicable State law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

## **§8-9. Enforcement.**

### **A. Violations**

- (1) Any violation of this chapter, including failure to comply with any condition, shall be deemed to be a violation of 30-A M.R.S. § 4452. Each day of violation constitutes a separate offense.
- (2) Commencement of any adult use marijuana business without a Town license for same shall be a violation of this chapter. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the Code Enforcement Officer (CEO). Upon such CEO notification, the Town can pursue fines and/or penalties under 30-A M.R.S. § 4452.

### **B. Code Enforcement Officer (CEO)**

- (1) If the CEO finds that any provision of this chapter is being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including but not limited to, discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.
- (2) The CEO shall keep a complete record of all essential transactions of the CEO, including adult use marijuana license applications submitted, licenses granted or denied, revocation actions, revocation of licenses, appeals, court actions, violations investigated, violations found, and fees collected.

### **C. Law Enforcement Officers.**

Law enforcement officers may at any reasonable time conduct on-site inspections to insure compliance with all applicable laws and conditions attached to license approvals, and shall investigate all complaints of alleged violations of the chapter.

### **D. Legal Actions.**

When the above notification and/or inspection actions do not result in the voluntary correction or abatement of the violation by the subject adult use marijuana store, the Municipal Officers, upon receiving written notification from the CEO, shall institute any and

all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this chapter.




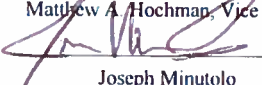

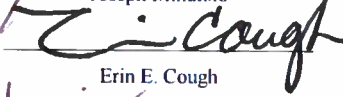
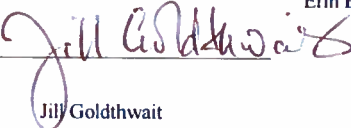
The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Chapter and recovering fines without court action.

E. Penalties/Fines.

Any person, including but not limited to, an adult use marijuana store owner, a property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this chapter, or fails to comply with any of its requirements, shall be penalized in accordance with 30-A M.R.S. § 4452.

Given under our hands and seal at Bar Harbor this 16<sup>th</sup> day of AUGUST, 2022:

**Municipal Officers of the Town of Bar Harbor**

 _____ Valerie Peacock, Chair	 _____ Matthew A. Hochman, Vice Chair
 _____ Gary Friedman	 _____ Joseph Minutolo
 _____ Jefferson Dobbs	 _____ Erin E. Cough
 _____ Jill Goldthwait	