

JONESPORT ORDINANCE FOR THE ADULT USE OF MARIJUANA

1-1 Title:

This ordinance shall be known and cited as the "Town of Jonesport Adult Use of Marijuana Retail Stores, Manufacturing Facilities, Adult Use Marijuana cultivation and Testing Facilities Ordinance" and will be referred to hereinafter as the "Ordinance".

This Ordinance:

1. regulates covered Adult Use of Marijuana Businesses;
2. prescribes definitions of Adult Use Marijuana Businesses;
3. provides for permitting/licensing and regulation of Adult Use Marijuana Businesses; and,
4. provides standards for Adult Use Marijuana Businesses.

1-2 Authority and Applicability:

WHEREAS, implementing a system for the regulation of stores, manufacturing, and testing for Adult Use of Marijuana, a controlled substance, is a complex function with significant administrative demands on the Town of Jonesport; and,

WHEREAS, ensuring that possession and use of Adult Use Marijuana is limited to persons who are 21 years of age or older is necessary to protect those who have not yet reached adulthood from the irresponsible use of a controlled substance; and,

WHEREAS, the Town of Jonesport believes that any production, processing, or selling of Adult Use Marijuana should be conducted in a safe and fair manner for the health, safety, and welfare of the community, which includes complying with provisions of all Maine Statutes regulating Adult Use Marijuana throughout the Town of Jonesport; and,

NOW THEREFORE, this Ordinance is adopted pursuant to the Marijuana Legalization Act, 28-B M.R.S. C-1; Adult Use Marijuana rules and regulations; Article VIII, Part 2 Section 1 of the Maine Constitution; and the provisions of the Municipal Home Rule Authority (30-A M.R.S. §3001 et seq.).

1-3 Purpose:

It is the purpose of this Ordinance to regulate Adult Use Marijuana Businesses in order to promote the health, safety, and general welfare of the citizens of Jonesport, and to establish reasonable and uniform regulations for the appropriate operation of Adult Use Marijuana Businesses in Jonesport.

This Ordinance may not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act.

Persons or entities wishing to establish an Adult Use Marijuana Business within the Town of Jonesport shall be subject to the provisions of this Ordinance.

Nothing in this ordinance is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.

Use, distribution cultivation, production, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a “Level 1 Controlled Substance” by federal law.

1-4 Conflict with Other Ordinances: Severability:

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

1-5 Effective Date:

The effective date of this Ordinance, and the permitting/licensing of the establishment or operation of any Adult Use Marijuana retail store, Adult Use Marijuana cultivation, Adult Use Marijuana products manufacturing, or Adult Use Marijuana testing facility in Jonesport, thereunder, shall be the date of adoption by the voters at a Town Meeting. Businesses in operation prior to the adoption of this ordinance will be required to apply within thirty (30) days and will be subject to the permitting process described below in paragraph I-9.

1-6 Validity and Severability:

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

1-7 Definitions:

For purposes of this Ordinance, Adult Use Marijuana businesses, including Adult Use Marijuana cultivation, Adult Use Marijuana products manufacturing facilities, and Adult Use Marijuana testing facilities, are defined as set forth in Maine Statutes regulating Adult Use Marijuana, except the definition of an Adult Use Marijuana Retail Stores.

Adult Use Marijuana Retail Store shall be described as follows: Any store, house, garage, shed, or structure having a location on a street or thoroughfare having display windows, business signs, or advertising media for the purpose of selling Adult Use Marijuana or any given location that provides Adult Use Marijuana products.

Distance under this ordinance shall be defined as the distance measured from the main entrance of the marijuana establishment to the main entrance of the school, daycare, recreational area or municipal zone by ordinary course of travel.

1-8 Prohibitions

Retail marijuana social clubs are expressly prohibited in the Town of Jonesport.

1-9 Permit/License Required:

The operation of a marijuana business without a license from the Town as provided in this ordinance is prohibited within the Town.

Legally pre-existing businesses in operation upon adoption of the Adult Use Marijuana Ordinance by the voters of Jonesport, if any, shall have One Hundred Twenty (120) days to comply with the requirements of this ordinance. The Board of Selectmen may extend this requirement a maximum of One Hundred Twenty (120) additional days for extenuating circumstances.

All Adult Use Marijuana stores must be operated from storefront locations. No internet sales or telephone sales will be allowed at any Adult Retail Marijuana business licensed in the Town of Jonesport. Adult Retail Marijuana Stores may not use vending machines for sales and may not have internet-based sales with credit or debit card payment and delivery by USPS, UPS, FedEx, or any other global or local delivery service or courier, unless in accordance with Maine Revised Statutes. No retail marijuana establishment shall operate a drive through or drive up window.

The Town has placed no limits on the number of permits or licenses for the following: Adult Use Marijuana retail stores, Adult Use Marijuana cultivation, Adult Use Marijuana products manufacturing facilities, and Adult Use Marijuana testing facilities.

1-10 Application Procedure:

- A. An application for a permit/license must be made on a form provided by the Town and submitted to the Town office with the application fee. The Town office will submit the application for Planning Board review. The applicant must notify all abutting property owners by certified mail at least fourteen (14) days in advance of the Planning Board Meeting and bring proof of notification to the meeting for attachment to the application.
- B. All applicants must be qualified according to the provisions of this ordinance. The applicant shall provide all required information to the Town. The Planning Board will then determine whether the applicant meets the qualifications established in this Ordinance.

Accepting a permit/license issued pursuant to this Ordinance, the licensee(s) 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 retail marijuana establishment owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.

A license issued pursuant to this Ordinance, all licensees, jointly and severally if more than one (1), agree 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 licensed retail marijuana establishment.

If the applicant who wishes to operate an Adult Use Marijuana Business is a single individual, this person must sign the application for a permit/license. If the applicant who wishes to operate an Adult Use Marijuana Business is more than one individual, each person who has an ownership interest in the business must sign the application for a permit/license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a permittee/licensee if a permit/license is granted.

- C. The completed application for an Adult Use Marijuana Business permit/license shall contain the following information and shall be accompanied by the following documents:
- a. 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.
 - b. 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.
 - c. 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 (a person or entity that owns 10% or more of the company's voting shares), 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.
 - d. 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.

- e. If the applicant intends to operate the Adult Use Marijuana Business under a name other than that of the applicant, they must state the Adult Use Marijuana Business' name and submit the required registration documents.
- f. 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. Any Class A, B, or C conviction will be grounds for denial of an application.
- g. If the applicant has had a previous permit/license under this Ordinance or other similar Adult Use Marijuana Business ordinances from another Town, City, or State denied, suspended or revoked, they must list the name and location of the Adult Use Marijuana Business for which the permit/license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. 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 permitted/licensed under this Ordinance, whose permit/license has previously been denied, suspended or revoked, listing the name and location of the Adult Use Marijuana Business for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.
- h. If the applicant holds any other permits/licenses under this Ordinance or other similar Adult Use Marijuana business ordinances from another Town, City, or State and, if so, the names and locations of such other permitted/licensed businesses.
- i. The classification of permit/license for which the applicant is filing.
- j. The location of the proposed Adult Use Marijuana business, including a legal description of the property, name of the property owner, the current street address, and a contact telephone number.
- k. The applicant's mailing address and residential address.
- l. Recent passport-style photograph(s) of the applicant(s).
- m. The applicant's driver's license and Social Security numbers.
- n. 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.
- o. A copy of a Town Tax Map depicting: the subject property lines and the

property lines of other properties containing any existing Adult Use Marijuana businesses within three thousand (3,000) feet of the subject property; the property lines of any public or private school within three thousand (3,000) feet of the subject property; within three thousand (3,000) feet of the property line of a church; the property lines of any pre-existing state licensed daycare facility, located within 3,000 feet under 10-148 CMR c. 32, and/or recreational areas designated for use by children up to eighteen (18) years in age, and/or areas designated as a municipal "safe zones" pursuant to 30-A M.R.S. §3253, within three thousand (3,000) feet of the subject property.

- D. All applications must be submitted with the appropriate fee below.
- E. All applications, and the information therein, for an Adult Use Marijuana permit/license shall be kept confidential by the Town.

1-11 Permit/License Required:

If an application is approved, the following permit/license fees must be paid before the Town will issue a permit/license:

Adult Use Marijuana Retail Store: Initial Application Fee: \$1,500 non-refundable; License Fee: \$2,500 (annually)

Adult Use Marijuana Manufacturing Facility: Application Fee: \$250 non-refundable; License Fee:

Tier 1: License Fee: \$2,500 for up to 40 lbs. of product on site (annually)

Tier 2: License Fee: \$5,000.00 for up to 200 lbs. of product on site
(annually)

Adult Use Testing Facility: Application Fee: \$250 non-refundable; \$500 (annually)

Adult Use Marijuana Cultivation Facility¹:

Tier 1: Up to thirty (30) mature plants (and an unlimited number of immature plants and seedlings) or up 500 SF of plant canopy.

By plant count: Application Fee: \$ 250. Non-refundable; License Fee: \$15.00 per mature plant for indoor or outdoor cultivation.

By canopy, 0-500 SF: Application fee: \$250. Non-refundable; License Fee: \$500. Indoor or outdoor.

¹ This section does not apply to home cultivation.

Tier 2: 501-3,000 SF of mature plant canopy: Application Fee: \$250. Non-refundable; License Fee: \$5,000. indoor or outdoor cultivation.

Tier 3: 3,001-10,000 SF of plant canopy: Application Fee: \$250. Non-refundable; License Fee: \$12,500. indoor or outdoor cultivation.

Tier 4: 10,001-20,000 SF of plant canopy: \$30,000. for either indoor or outdoor cultivation and an additional \$7,500. for each additional 7,000 SF of manufacturing space both indoor or outdoor.

The Board of Selectmen may choose to structure quarterly payment of the licensing fees during the first license year to assist start-up businesses. However, each business owner shall ensure that the payment is made to the Town of Jonesport by the due date or their license is immediately and automatically under suspension and shall not become effective again until reviewed by the Board of Selectmen.

1-12 Standards for Permit/License:

A. General

1. Adult Retail Marijuana Businesses, Retail Stores, and Testing Facilities, may exist and operate in Jonesport with the exceptions listed below:

- a new license may not be located within three thousand (3,000) feet of any public or private school;
- a new license may not be located within three thousand (3,000) feet of a church;
- a new license may not be located within three thousand (3,000) feet of any preexisting state licensed daycare facility; or within three thousand (3,000) feet of recreational areas designated for use by children up to eighteen (18) years in age; and/or,
- a new license may not be located in areas designated as a municipal "safe zones" pursuant to 30A M.R.S. §3253, within three thousand (3,000) feet of the subject property.

A daycare facility or recreational facility may locate closer than regulation allows to an existing Adult Use Marijuana retail store, Adult Use manufacturing facilities, Adult Use Marijuana testing facilities or adult use marijuana nursery or cultivation facilities. This will not cause a closure of the already existing facility.

2. More than one Adult Retail Marijuana Business may be co-located and operated within the same building, structure, or portion thereof, provided all ordinance and application requirements are met.
3. Adult Retail Marijuana Businesses may be open for business only between the hours of 7:00 a.m. and 9:00 p.m., locally prevailing time.

4. The sale or offering for sale of Adult Use Marijuana and/or Adult Use Marijuana products under permit/license and the sale or offering for sale of Adult Use Marijuana and/or Marijuana products under permit/license within the same premises is allowed subject to Maine Revised Statutes.
5. For the purpose of subsection, A of this Section, measurement shall be made in accordance with MRSA 28A Chapter 29 subsection 701-2. Presence of a Town, County, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
6. Security measures at all Adult Use Marijuana Business premises shall be in accordance with all state licensing regulations.
7. Ventilation, Noise, and Lighting:

All Adult Use Marijuana businesses are responsible for proper ventilation for odor control, noise control, and proper lighting to ensure the property of others is not negatively impacted by the Adult Use Marijuana business operations. The Board of Selectpersons shall have the authority, after notice and hearing, to suspend and/or revoke any license for non-compliance with this standard or based upon numerous complaints from property abutters.

8. Required Notices:

In accordance with any regulations outlined in 28-B. M.R.S. 702

9. Signs, Marketing and Advertising:

All signage shall meet all requirements outlined in 28-B M.R.S. 702.

- B. Right of Access/Background Check/Inspection

Every Adult Use Marijuana Business shall allow the Jonesport Code Enforcement to enter the premises at reasonable times for the purpose of checking compliance with 28-B and this Ordinance.

Every owner and employee of an Adult Use Marijuana business applying for a permit/license, shall contact the Washington County Deputy Sheriff for the purposes of fingerprinting and criminal background checking. All premises managers for Adult Use Marijuana businesses shall submit emergency contact information to the Washington County Deputy Sheriff. The applicant will be required to cover all costs of conducting the background check and pay said fees to the Deputy Sheriff, prior to receiving a license. No applicant may have previously been convicted of a disqualifying drug offense under 28-B M.R.S. 202(4).

Due to fire, explosion, and other hazards inherent in Adult Use Marijuana Manufacturing facilities, including, but not limited to, heavy electrical loads, hot

lighting fixtures, CO² enrichment, extraction solvents (acetone, butane, propane, ethanol, heptane, isopropanol, CO², etc.), high- pressure extraction methods (CO², etc.), and flammable contents, the owners of all such facilities shall agree to be inspected in the same manner as all other Jonesport businesses using or storing these types of chemicals.

C. Indemnification

By accepting a permit/license issued pursuant to this Ordinance, the permittee/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 Retail Marijuana Business owners, operators, employees, clients, or customers for a violation Of local, State or federal laws, rules or regulations. By accepting a permit/license issued pursuant to this Ordinance, the permittee/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 Retail Marijuana Business,

D. State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, manufacturer, distribution, or testing of Adult Use Marijuana or Adult Use Marijuana products, the additional or stricter regulation shall control the establishment or operation of any Adult Use Marijuana Retail Store, Adult Use Marijuana Products Manufacturing, or Adult Use Marijuana Testing Facility in Jonesport.

Compliance with all applicable Maine State laws and regulations shall be deemed an additional requirement for issuance or denial of any permit/license under this Ordinance, and noncompliance with other applicable Maine State laws and regulations shall be grounds for revocation or suspension of any permit/license issued hereunder.

1-13 Enforcement

A. Violations

1. Any violation of this Ordinance, including failure to comply with any condition, shall be deemed to be a violation of 30-A M.R.S. §4452. Every day a violation exists constitutes a separate violation.
2. Commencement of any Adult Retail Marijuana Business without a Town permit/license for same shall be a violation of this Ordinance. Any party

committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the CEO or their designee.

Upon such 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 Ordinance 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 permit/license applications submitted. Records of all permits/licenses granted or denied, revocation actions, revocation of permits/licenses, appeals, court actions, violations investigated, violations found, and fees collected are maintained by the municipality.

C. 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 Retail Marijuana Business, 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 Ordinance. The Municipal Officers or their authorized agent is hereby authorized to enter administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.

D. Penalties/Fines

Any person, including but not limited to, an Adult Use Marijuana business 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 upon failure to comply with any of its requirements, shall be penalized in accordance with 30-A M.R.S. §4452 which can include suspension or revocation of an Adult Use Marijuana license.

E. Monies Collected from Licensing Fees, Fines, and Penalties

1. Licensing Fees shall be placed in a fund the first year to determine the additional costs of the enforcement of this ordinance. At the end of the first fiscal year the Town shall pay all costs of Code Enforcement first and then split the remaining proceeds as follows:
2. The remaining funds will be used for programs and services at the discretion of the Selectpersons.
3. Background check fees shall be paid directly to the Sheriff's Office.

1-14 Amendments:

A. Initiation of Amendments:

An amendment to this Ordinance may be initiated by:

1. The Municipal Officers, provided a majority of them have so voted; or,
2. Written petition with enough signatures equal to at least ten percent (10%) of votes cast in the municipality at the last gubernatorial elections.

B. Public Hearing:

The Municipal Officers shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

C. Adoption of Amendment:

An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.

ADOPTED BY THE TOWN OF JONESPORT AT A TOWN MEETING HELD ON:

August 25, 2021

Attested by Town Clerk: Tonia J. Merchant