

## TOWN OF SHIRLEY MARIJUANA ESTABLISHMENTS LICENSING ORDINANCE

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### ARTICLE I. PURPOSE AND AUTHORITY

**Section 1.1 Purpose.** The purpose of this Ordinance is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in the Town of Shirley Marijuana Establishments Ordinance, as may be amended.

**Section 1.2 Authority.** This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, § 1 of the Maine Constitution, the provisions of Title 30-A MRS § 3001 (Home Rule), the provisions of Title 30-A MRS § 4312 *et seq.* (Comprehensive Planning and Land Use Regulation, or “Growth Management” Act), the provisions of 28-B MRS § 101 *et seq.* (Marijuana Legalization – Adult Use), and the provisions of 22 MRS § 2421 *et seq.* (Medical Use of Marijuana), and any rules adopted pursuant to 28-B MRS § 101 *et seq.* and 22 MRS § 2421 *et seq.*

### ARTICLE II. DEFINITIONS

**Section 2.1** The definitions in Section 4 of the Town of Shirley Marijuana Establishments Ordinance, as may be amended, are hereby adopted by reference. In addition, the following terms shall have the following meanings:

Applicant - Means a person who has submitted an application for licensure as a Marijuana Establishment pursuant to this Ordinance.

Licensed Premises - Means the premises specified in a license to operate a Marijuana Establishment within which the licensee is authorized under this Ordinance to cultivate, manufacture, distribute, test, or sell marijuana and marijuana products.

Licensee - Means a person licensed pursuant to this Ordinance to operate a Marijuana Establishment.

Local License - Means any license required by and issued under the provisions of this Ordinance.

Owner - Means a person whose beneficial interest in a Marijuana Establishment 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 a Marijuana Establishment, and has a controlling interest in a Marijuana Establishment.

Person - Means 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.

State License - Means any license, permit, registration, or certification issued by the State Licensing Authority.

State Licensing Application - Means the application form and supporting materials required by the state of Maine for the purpose of a person obtaining a state license, registration, or certification for the cultivation, manufacture, distribution, testing, and sale of adult use marijuana, adult use marijuana products, medical marijuana, and/or medical marijuana products in Maine.

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State Licensing Authority - Means the authority (or authorities) created by the state of Maine for the purpose of regulating and controlling the licensing or permitting of the cultivation, manufacture, distribution, testing, and sale of adult use marijuana and adult use marijuana products, and of any medical marijuana and medical marijuana products in Maine.

### **ARTICLE III. GENERAL**

**Section 3.1 Marijuana Establishments.** Marijuana Establishments shall be allowed, subject to the requirements and restrictions of this Ordinance and the Town of Shirley Marijuana Establishments Ordinance.

**Section 3.2 Prohibited Activities**

- A. No Marijuana Establishment shall be established or operated within the Town of Shirley (Town) without first receiving and then maintaining all approvals required under this Ordinance and under the Town of Shirley Marijuana Establishments Ordinance.
- B. No Marijuana Establishment shall conduct any activity for which it has not received the required State License and Local License.
- C. Marijuana Social Clubs are prohibited within the Town.

**Section 3.3 Licenses Required**

- A. **State License.** A Marijuana Establishment shall not operate until it is licensed by the State Licensing Authority pursuant to the requirements of 28-B MRS § 101 *et seq.* and 22 MRS § 2421 *et seq.*
- B. **Local License.** A Local License issued under the provisions of this Ordinance is required for any Marijuana Establishment.

### **ARTICLE IV. LICENSING**

**Section 4.1 Licensing Authority and Procedures**

- A. All licenses for Marijuana Establishments, whether new or renewals must be approved by the Town of Shirley Select Board.
- B. An Applicant for a Local License shall complete and file an application on a form prescribed by the Code Enforcement Officer, together with a license fee as set out in the Town's schedule of fees together with the following submissions:
  - 1. The name, mailing address, and phone number of the applicant; and the name, mailing address, and phone number of the property owner(s) of all property to be used, if other than the applicant. If the applicant is not the property owner of record, then a notarized signed statement from the property owner(s) stating that the applicant has permission to utilize the property for the Marijuana Establishment must be submitted.
  - 2. If a State License is required for the proposed use, a copy of the Applicant's State Licensing Application and supporting documentation as filed with the State Licensing Authority and any amendments thereto.
  - 3. Evidence of all state approvals or conditional approvals required to operate the Marijuana Establishment, including, but not limited to, the State License as defined by this Ordinance, a state retail certificate, or a state health license.

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4. If not included in the Applicant's State License Application, attested copies of the articles of incorporation and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.
5. 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 3 years.
6. Evidence of all approvals required to operate a Marijuana Establishment pursuant to the Town of Shirley Marijuana Establishments Ordinance to include, but not be limited to, a copy of the Planning Board Conditional Use Permit Notice of Decision and the Planning Board approved Operating Plan depicting the size and layout of the marijuana operation; evidence of facilities for wastewater and waste disposal, electricity, water and other utilities necessary for the normal operation of the facility; security; hours of operation; and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan must include the proposed size and layout of the facility and must depict the total square footage of plant canopy area, floor area, and number of plants, as applicable to the type of permit or license.
7. Evidence of all other local and state approvals or conditional approvals required to operate a Marijuana Establishment pursuant to local and state laws.
8. For license renewal, an applicant must submit proof of continued compliance with all local ordinances and state statutes and/or copies of any documentation determining non-compliance.
9. Any additional information as may be needed by the Select Board in the issuing of the license.

### **C. Confidentiality**

1. Medical marijuana caregivers and other applicants submitting applications and supporting information that is confidential under 22 MRS § 2425-A(12) and the Maine Freedom of Access Act, Title 1, chapter 13, shall mark such information as confidential.
2. An individual who possesses a valid Maine medical marijuana registered caregiver registry identification card need not identify themselves in an application for a license for a Marijuana Establishment. The medical marijuana registered caregiver cardholder must identify themselves to the Code Enforcement Officer and provide the relevant card(s) for examination, but the identity of the cardholder shall not be a public record and the Code Enforcement Officer shall not share the identity of the cardholder, except as necessary by law in the performance of their duties. At the time of application, the cardholder may appoint a representative to appear before the Select Board on the cardholder's behalf. Advertisements for public hearing shall contain the location of the proposed Marijuana Establishment and the identity of the owner of the real estate and the identity of the designated representative. The Code Enforcement Officer may certify to the Select Board that the applicant meets the necessary legal requirements as a cardholder(s).

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**D. License Fees.** Fees for a Local License shall be established by the Select Board, and licenses must be renewed annually, including payment of license fees. These fees shall be non-refundable and submitted with the application. The application shall not be considered complete until the appropriate fee is paid.

### **E. Procedures**

1. The applicant shall submit one (1) copy of the application and all other related and required information to the Code Enforcement Officer.
2. Complete application. If the Code Enforcement Officer determines that a submitted application is not complete, the Code Enforcement Officer shall notify the Applicant within 10 business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.
3. Upon receipt of a complete application, the Code Enforcement Officer will notify the Select Board, contracted or Town of Shirley Fire Chief, Piscataquis County Sheriff's Department and Health Officer that the application is available for their review and comment.
4. The Code Enforcement Officer shall, prior to the scheduled public hearing, report to the Select Board whether such application and premises comply with the Town of Shirley Marijuana Establishments Ordinance, the Town's Land Use Ordinance, and any other applicable state and local laws. The Code Enforcement Officer shall consult with the Select Board, Piscataquis County Sheriff's Department, contracted or Town of Shirley Fire Chief, and Health Officer to determine compliance with their rules, regulations, or policies. In the event the premises is not yet constructed, these officials shall base their recommendations on the plans submitted in the application. Any Local License approved prior to construction shall contain a condition that the premises may not open for business until the premises has been inspected by the Code Enforcement Officer and determined to be in substantial compliance with the application as submitted and approved by the Select Board.

**F. Public Hearing.** The Select Board shall, prior to granting the initial Local License and after reasonable notice to the public and the applicant, hold a public hearing within 30 days of the date when the application was deemed complete. The notice to the public will be paid for by the applicant. The Select Board may waive the requirement for a public hearing for Local License renewals where there has not been a request for a public hearing from the Select Board, Piscataquis County Sheriff's Department, contracted or Town of Shirley Fire Chief, Health Officer, Code Enforcement Officer, or an abutter.

**G. Decisions and Conditions.** The Select Board shall grant a Local License if all provisions of this Ordinance are satisfied unless they find that issuance of the Local License will be detrimental to the public health, safety, or welfare, or would violate any Town ordinances, rules, regulations, or policies. The Select Board shall have the authority to impose such reasonable terms and conditions on a Local License as necessary to protect the public health, safety, or welfare, and to obtain compliance with this Ordinance, the Town of Shirley Marijuana Establishments Ordinance, or any other Town ordinance, rules, regulations, or policies.

**H. Permit Renewal.** A Local License for a Marijuana Establishment shall be valid for 1 year and must be renewed annually. Application for renewal of Local Licenses shall be made no later than 60 days prior to the expiration of the existing Local License. Applicants for re-licensure must demonstrate continued compliance with this Ordinance,

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the Town of Shirley Marijuana Establishments Ordinance, and any other Town ordinance, rules, regulations, or policies.

I. **Transfer in Ownership or Change in Location.** Local Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership or change in the officers, members, managers, or partners of a Marijuana Establishment shall require a new Local License. Local 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 Local License for that location.

J. **Posting of Local License.** The Local License, if granted, shall state the name of the person(s) to whom it is issued, the expiration date, and the address of the Marijuana Establishment. The Local License shall be posted in a conspicuous place at the licensed establishment so that it can be easily read anytime the establishment is open.

**Section 4.2 Permitting Timeframe and Appeal Procedures.** Any licensee requesting a Local License from the Select Board shall be notified in writing of the Select Board's decision no later than 45 days from the date of the submission of a complete application. If an applicant is denied the Local License, the applicant shall be provided with the reasons for the denial in writing. The applicant may then apply to the Town of Shirley Appeals Board. If the license application is denied, the applicant may appeal the decision of the Select Board to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

### **Section 4.3 Inspections**

A. Marijuana Establishments may be subject to periodic inspections by the Health Officer, Code Enforcement Officer, contracted or Town of Shirley Fire Department, and the Piscataquis County Sheriff's Department to ensure compliance with health regulations, land use or safety regulations, and license conditions. Each licensee, by accepting this license, consents to the entry upon the licensed premises by such officials.

B. The Select Board may revoke the Local License of any licensee in the Town who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis or who interferes with such officer, official, or employee while in the performance of his duty.

**Section 4.4 Suspension or Revocation of a Permit.** In addition to any other penalty which may be provided, the Select Board may, after a public hearing preceded by notice to the permit holder and public, suspend or revoke any Local License which has been issued under this Ordinance on grounds that the Marijuana Establishment, so permitted, constitutes a detriment to the public health, safety, and welfare, or violates the terms of the Local License or this Ordinance or any other town ordinance, articles, bylaws, or rules and regulations.

## **ARTICLE V: INDEMNITY, CONFLICT, PENALTY, SEVERABILITY, AND EFFECTIVE DATE** Section 5.1 Indemnity

A. By accepting a Local License issued pursuant to this Ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, volunteers, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients, or customers for a violation of federal, state, or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended, and held harmless for any and all costs and fees, including,

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attorney's fees, reasonably incurred by that party in defense of such liabilities, claims, and demands.

B. By accepting a license issued pursuant to this Ordinance, all licensees, jointly and severally, if more than one, agree to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, volunteers, agents, insurers, and self-insurance pool 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 retail or medical marijuana business that is the subject of this license. This obligation to indemnify, defend, and hold harmless shall include the obligation to reimburse the party so indemnified, defended, and held harmless for any and all costs and fees, including attorney's fees, reasonably incurred by that party in defense of such liabilities, claims, and demands.

C. The Town of Shirley shall be listed as co-insured on all insurance policies.

**Section 5.2 Other Laws Remain Applicable.** All Marijuana Establishments shall meet all requirements of state and local law and regulation. To the extent the state of Maine has adopted or adopts in the future any stricter law or regulation governing Adult Use Marijuana or Medical Marijuana, the stricter law or regulation shall control.

**Section 5.3 Violations and Penalties.** The operation of any Marijuana Establishment without the required Local License or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. Violations shall be punished by a fine of not more than \$500.00 for the first offense, for each day the violation continues after receipt of written notice of the violation, and up to \$1,000.00 for each subsequent offense, for each day the violation continues after receipt of written notice of the violation, to be recovered on complaint, for the use of the Town of Shirley.

**Section 5.4 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.

**Section 5.5 Effective Date.** This Ordinance and any subsequent amendments take effect upon enactment by the legislative body of the Town of Shirley.