

**TOWN OF FRYEBURG
ADULT USE MARIJUANA CULTIVATION, PRODUCTS MANUFACTURING,
& TESTING ORDINANCE**

ARTICLE I. PURPOSE

The purpose of this Ordinance is to regulate adult use marijuana cultivation, products manufacturing, and testing facilities to protect the public's health, safety, and welfare, while fostering a dynamic business climate. Adult use marijuana and marijuana operations is often referred to as "recreational marijuana".

ARTICLE II. GENERAL

Section 1. License Required

- A. It shall be unlawful for any adult use marijuana cultivation, products manufacturing, or testing facility to operate within the Town without first obtaining an Adult Use Marijuana License signed by a majority of the Board of Selectmen. A separate license shall be obtained for each type of marijuana facility (i.e., cultivation/ products manufacturing/testing). Social clubs and retail stores are prohibited in the Town of Fryeburg.
- B. This Ordinance does not apply to Home Cultivation for Personal Use or to Medical Marijuana operations as allowed per the Maine Medical Use of Marijuana Act.
- C. Applicants for adult use marijuana licenses must first obtain Land Use Authorization from the Fryeburg Planning Board prior to applying for a marijuana license.
- D. Applicants for adult use marijuana licenses must have a license from the State per Title 7 Section 2447.
- E. Applications for all adult use marijuana licenses shall be made in writing to the Board of Selectmen on the application obtained from the Town and shall contain the following information:
 - 1. The name, mailing address, and phone number of the applicant; and the name, mailing address, and phone number of the property owners of the property to be used, if other than the applicant. If the applicant is not a the property owner of record, then a notarized signed statement from the property owner stating that the applicant has permission to utilize the premises for marijuana business must be submitted.
 - 2. A copy of the Planning Board Land Use Authorization Notice of Decision.
 - 3. Proof of state licensure.

4. The Planning Board Approved Operating Plan which demonstrates the proposed size and layout of the marijuana operation; plans for wastewater and waste disposal; plans for providing electricity, water and other utilities necessary for the normal operation of the facility; plans for securing the proposed facility, hours of operation and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan for a cultivation facility must include the proposed size and layout of the cultivation areas, and must depict the total square footage of plant canopy area (or number of plants for Tier 1 cultivation facilities).
 5. A copy of the plans submitted to and approved by the Planning Board.
 6. Any additional information as may be needed by the Board of Selectmen in the issuing of the permit.
 7. For license renewal, submit proof of continued compliance with all local ordinance and state statutes and/or copies of any documentation determining non-compliance.
- F. The marijuana business license fee shall be paid when the application is submitted. The Board of Selectmen will annually set the fee amount. If they fail to set the fees, those established for the prior year continue in effect.
- G. The applicant shall submit 11 copies of the application and all other related and required information to the Town Clerk. Upon receipt the Town Clerk will forward copies of the application to the Board of Selectmen, Town Manager, Fire Chief, Police Chief, and Code Enforcement Officer for review and comment.

Each of the aforementioned department heads, or designees, shall, prior to the scheduled public hearing, report to the Selectmen whether such application and premises comply with the laws administered by each department. No license may be issued unless each department reports that the application and premise complies with the relevant laws. In the event the premises are not yet constructed, the department shall base their recommendation on a review of the plans submitted in the application. Any license approved prior to construction shall contain a condition that the premises may not open for business until the premises has been inspected and determined to be in substantial compliance with the application as submitted and approved.

- H. The Board of Selectmen shall, prior to granting license and after reasonable notice to the public and the applicant, hold a public hearing within 45 days of the date the request was received, at which the testimony of the applicant and that of any interested member of the public shall be taken. The notice to the public will be paid for by the applicant.
- I. The Board of Selectmen shall grant a license unless they find that issuance of the license will be detrimental to the public health, safety or welfare, or would violate

municipal ordinances, or rules and regulations, articles or bylaws, or laws. The Board of Selectmen shall have the authority to impose such reasonable terms and conditions on a license as necessary to protect the public health, safety or welfare and to obtain compliance with this Ordinance or any other municipal ordinance, articles, bylaws, or rules and regulations.

- J. An adult use marijuana license shall be valid for 1 year and must be renewed annually.
- K. Application for renewal of licenses shall be made no later than 60 days prior to the expiration of the existing marijuana license. The renewal license shall be issued in the same manner as for the original application under this ordinance.

Applicants for re-licensure will be asked to demonstrate continued compliance with this Ordinance or any other municipal ordinance, articles, bylaws, or rules and regulations, or laws.

- L. No license issued pursuant to this ordinance shall be assignable or transferable.
- M. The marijuana license, if granted, shall state the name of the person(s) to whom it is issued, the expiration date, and the address of the retail marijuana business. The license shall be posted in a conspicuous place at the licensed establishment so that it can be easily read anytime the business is open.
- N. The maximum number of adult use marijuana licenses allowed at one time for cultivation shall be as follows:
 - Tier 1- 20 licenses
 - Tier 2- 10 licenses
 - Tier 3- 5 licenses
 - Tier 4- 2 licenses

Licenses will be issued on a first-come-first-served basis, based upon the date of submission of a completed application, and existing licensees will be given priority in a situation where there are multiple applicants and only one license slot available.

Section 2. Permit and Appeal Procedures

Any licensee requesting an adult use marijuana license from the Board of Selectmen shall be notified in writing of their decision no later than forty-five (45) days from the date the request was received. In the event that an applicant is denied the license, the applicant shall be provided with the reasons for the denial in writing. The applicant may not reapply for a license within thirty (30) days after an application for a license is denied.

Section 3. Inspections

Adult use marijuana operations may be subject to periodic inspections by the Local Health Officer, Code Enforcement Officer, Fire Department, Police Department to ensure compliance with health regulations, zoning or safety regulations, and license conditions.

Each licensee, by accepting this license, consents to the entry upon the licensed premises by such officials.

The Board of Selectmen may revoke the adult use marijuana license of any licensee in the municipality 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. Suspension or Revocation of a Permit

In addition to any other penalty which may be provided, the Board of Selectmen may, after a public hearing preceded by notice to the permit holder and public, suspend or revoke any marijuana license which has been issued under this Ordinance on grounds that the marijuana business, so permitted, constitutes a detriment to the public health, safety, welfare, or violates the terms of the license or this Ordinance or any other municipal ordinance, articles, bylaws, or rules and regulations.

ARTICLE III: ADULT USE MARIJUANA OPERATIONS PERFORMANCE STANDARDS

A. Location:

1. Each marijuana business shall be operated from a permanent location and may not be permitted to operate from a moveable or mobile location.
2. Marijuana operations may not be located within 1,000 feet of preexisting schools (public or private), public athletic complexes, libraries, churches, public parks, and licensed day-care centers. This measurement is taken from the lines of the property on which the marijuana operation is located.

B. Sound:

1. The sound pressure level limits outline in Section 16.H of the Town of Fryeburg Land Use Ordinance must be adhered to at all times.

C. Refuse/Product Waste Disposal:

1. Marijuana product waste must be made unusable and unrecognizable prior to leaving the premises.
2. Solid, liquid and hazardous wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations, including, to the extent practicable, rules adopted pursuant to 7 M.R.S.A. §2448(7)(G).

D. Odors/Ventilation:

1. Indoor marijuana businesses shall be ventilated so that they odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property.

2. Indoor marijuana businesses shall have an odor mitigation system installed that has been approved and stamped by a Maine licensed engineer indicating that the system will provide sufficient odor control measures.

E. Security:

1. Marijuana facilities (where applicable) shall have lockable door and windows to include intrusion alarms with the audible and police notification components sending notification directly to or through a second party to the Fryeburg Police Department.
2. Outdoor cultivation operations shall be enclosed with secure fencing.
3. Marijuana facilities shall have video surveillance capable of covering the exterior and interior of the operation. The video shall be operated with continuous recording 24 hours per day, 7 days per week, and such recordings shall be retained for a minimum duration of 30 days and be made available to law enforcement agencies when investigating a criminal complaint.
4. All useable marijuana, marijuana product, and cash must be stored in a safe or cabinet that is securely attached to the structure or is incorporated as part of the structure. For marijuana products that must be kept refrigerated or frozen, these products may be stored in a locked refrigerator or freezer container provided the container is affixed to the building structure.

F. Signs/Advertising:

1. Within the marijuana premises there shall be at least one legible sign stating that on-premise use of marijuana is illegal, open and public consumption is illegal, no one under the age of 21 is allowed, and the use of marijuana may impair a person's ability to drive or operate machinery.
2. Exterior signs must be in compliance with the regulations of the Fryeburg Land Use Ordinance, and also shall not advertise marijuana brand names or utilize graphics related to marijuana or paraphernalia on the exterior of the marijuana retail business or the building in which the business is located.
3. There may be no display of marijuana and paraphernalia so as to be clearly visible from the exterior of a facility.
4. There may be no off-premise signs (permanent or temporary) advertising the marijuana business.
5. No ads, coupons, signs, promotional materials, or similar shall target people under the age of 21 or non-Maine residents or visitors.

G. Consumption

1. There may be no on-site consumption of marijuana at licensed facilities.

H. Town Parks/Property

1. There may be no consumption of marijuana at Town Parks or on Town Property.

ARTICLE IV. DEFINITIONS

Adult use marijuana: Marijuana cultivated, distributed or sold by a marijuana establishment for non-medical purposes

Adult use marijuana product: A marijuana product that is manufactured, distributed or sold by a marijuana establishment for non-medical purposes.

Cultivation or cultivate: The planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. “Cultivation or cultivate” does not including manufacturing.

Cultivation facility: A facility that cultivates, prepares and packages adult use marijuana and sells adult use marijuana to products manufacturing facilities, marijuana stores and to other cultivation facilities.

Immature marijuana plant: A marijuana plant that is not flowering and that is not a mature marijuana plant, or a seedling.

Licensee: A person permitted pursuant to this Ordinance to establish and operate an adult use marijuana operation.

Manufacturing or manufacture: The production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. “Manufacturing or manufacture” does not include cultivation.

Marijuana: The leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. “Marijuana” does not include industrial hemp, as defined in MRSA Title 7, section 2231, or a marijuana product.

Marijuana operation: A cultivation facility, a products manufacturing facility, a testing facility, a marijuana store or a marijuana social club.

Marijuana plant: All species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant and a seedling.

Marijuana product: Marijuana concentrate or a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. “Marijuana product” includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture.

Marijuana social club: A facility that purchases adult use marijuana products from a products manufacturing facility sells adult use marijuana products to consumers for consumption on the premises of the marijuana social club.

Marijuana store: A facility that purchases adult use marijuana from a cultivation facility, purchases adult use marijuana products from a products manufacturing facility and sells adult use marijuana and adult use marijuana products to consumers.

Mature marijuana plant: A marijuana plant that is flowering or that is of a size: Greater than 12 inches in height; or greater than 12 inches in width.

Nursery Cultivation Facility: A facility that cultivates immature marijuana plants, seedlings, and marijuana seeds only for sale and distribution to marijuana stores, other cultivation facilities, and to consumers.

Plant canopy: The area within a cultivation facility that is dedicated to the live cultivation of marijuana plants, including, but not limited to, the growth and maintenance of mother plants, the propagation of marijuana plants from seed to plant tissue, the cloning of marijuana plants and the maintenance of a vegetative or flowering area for marijuana plants. "Plant canopy" does not include the area within the premises of a cultivation facility that is not dedicated to the live cultivation of marijuana plants, including, but not limited to, areas for the storage of fertilizers, pesticides or other products; quarantine areas; general office space, work areas and walkways.

Products manufacturing facility: A facility that purchases adult use marijuana from a cultivation facility; manufactures, labels and packages adult use marijuana products; sells adult use marijuana products to marijuana stores, marijuana social clubs and to other products manufacturing facilities.

Propagation: The process of reproducing marijuana plants through the use of seeds, cuttings or grafting.

Public Parks: Fryeburg public parks are Graustein Park, Bradley Park, Admiral Peary Park, Weston's Beach, Canal Bridge, Joseph Frye Homestead, Stark's Hill Rest Area, Baxter Memorial Park, Brownfield Bog Access, Skillings-Newman Memorial Park, Eastman Grove, Abraham Krasker Bog Pond Public Landing and Conservation Area, Jockey Cap, Town Forest and Nature Area.

Seedling: A marijuana plant that is: Not flowering; less than 6 inches in height; and less than 6 inches in width.

Tier 1 Cultivation Facility: A facility that may cultivate not more than 30 mature marijuana plants and an unlimited number of immature marijuana plants and seedlings; or has not more than 500 square feet of plant canopy.

Tier 2 Cultivation Facility: A facility that may cultivate not more than 3,000 square feet of plant canopy.

Tier 3 Cultivation Facility: A facility that may cultivate not more than 10,000 square feet of plant canopy.

Tier 4 Cultivation Facility: A facility that may cultivate not more than 30,000 square feet of plant canopy.

Testing or test: The research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing or test" does not include cultivation or manufacturing.

Testing facility: A facility that develops, researches and tests marijuana, marijuana products and other substances.

ARTICLE V: PENALTY, SEPARABILITY & EFFECTIVE DATE

Section 1. Penalty

Whoever violates any of the provisions of this Ordinance 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 \$1000.00 for each subsequent offense, for each day the violation continues after receipt of written notice of the violation, to be recovered on complaint, to the use of the Town of Fryeburg.

Section 2. Separability

The invalidity of any provision of this Ordinance shall not invalidate any other part.

Section 3. Indemnity

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

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

Section 4. Effective Date

This ordinance shall become effective when adopted by a majority vote at Town Meeting.

Revised: June 2019