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TOWN OF EUSTIS

Retail Marijuana Stores, Cultivation Facilities, Manufacturing Facilities, Testing Facilities and Marijuana Business Ordinance

ENACTED: March 3, 2018

**Town of Eustis
Land Use
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**Adult Use Marijuana Stores, Cultivation Facilities, Manufacturing Facilities,
Marijuana Business and Testing Facilities Ordinance**

**Chapter 11
Land Use**

11 - 14.1 Title:

This ordinance shall be known and cited as the “Town of Eustis Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana Manufacturing Facilities, Retail Marijuana Testing Facilities Ordinance”, as well as “Retail Medical Marijuana and Retail Caregiver Businesses” and will be referred to hereinafter as “this Ordinance”. This Ordinance limits all these subject Marijuana Businesses to the zoning districts specified under the Zoning Ordinance Table of Uses; prescribes definitions of these Retail Marijuana Businesses; provides for permitting and regulation of Retail Marijuana Businesses; and provides standards for all Marijuana Businesses in the Town of Eustis.

11 - 14. 2 Authority and Applicability:

WHEREAS, implementing a system for the regulation of stores, cultivation, manufacturing, and testing for the adult use of marijuana, a controlled substance, is a complex function with significant administrative demands on the Town of Eustis; and

WHEREAS, ensuring that possession and use of retail 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 effects of irresponsible use of a controlled substance; and

WHEREAS, the Town of Eustis believes that any production, processing, or selling of 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 Maine Statutes regulating Adult Use Marijuana throughout the Town of Eustis; and

WHEREAS, the Town of Eustis hereby prohibits the permitting and operation of Marijuana Social Clubs or Outdoor Commercial Cultivation within its jurisdiction,

NOW THEREFORE, this Ordinance is adopted pursuant to the Marijuana Legalization Act, Maine Statutes regulating Adult Use Marijuana; and Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30-A M.R.S. §3001 et seq.) and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S. §4312 et seq.

11 - 14.3 Purpose:

It is the purpose of this Ordinance to regulate All Retail Marijuana Businesses in order to promote the health, safety, and general welfare of the citizens of Eustis, and to establish reasonable and uniform regulations for the appropriate location of Marijuana Businesses in Eustis.

Persons or entities wishing to establish a Retail Marijuana Business within the Town of Eustis shall first obtain a permit from the Eustis Planning Board and shall be subject to the provisions of this Ordinance. This ordinance shall be enforced by the Town of Eustis Code Enforcement Officer.

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.

11 - 14.4 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.

11 - 14.5 Effective Date:

The effective date of this Ordinance, and the permitting of the establishment or operation of any retail marijuana store, marijuana cultivation facility, marijuana products manufacturing, or marijuana testing facility in Eustis thereunder, shall be the date of adoption by the voters at a Town Meeting.

11 - 14.6 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.

11 - 14.7 Definitions:

For purposes of this Ordinance, retail marijuana businesses and all marijuana businesses, including retail marijuana stores and retail medical caregivers, retail marijuana cultivation facilities (including retail marijuana nursery cultivation facilities), retail marijuana products manufacturing facilities, retail marijuana testing facilities are defined as set forth in Maine's Statutes regulating Adult Use Marijuana

11 - 14.8 Permit Required:

No person may establish, operate or maintain a Marijuana Business without first obtaining a permit from the Town of Eustis. It is a violation of this Ordinance for any person to operate any Marijuana Business without a valid Marijuana Business permit issued by the Town pursuant to this Ordinance. Retail Marijuana Social Clubs are prohibited in the Town of Eustis.

Pursuant to Maine's Statutes regulating Adult Use Marijuana, the Town has placed the following permit limits for the following: Retail Marijuana Store - two (2); Cultivation Facilities – no limit; Manufacturing Facility – no limit; and Testing Facility – no limit. Whenever a permit expires and is not renewed, or the Town declines to renew a permit, other permit applications may be reviewed, but the cap of permits per each category shall be maintained.

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

All Marijuana Stores must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer, on the day the order was made, either pays for and picks up such orders in the store, or pays on receipt of order via delivery by store employee or owner upon proof of identification. 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, or any other global or local delivery service or courier.

Enforcement of all permits issued shall be enforced by the Eustis Code Enforcement Officer.

11 - 14.9 Application Procedure:

- A.** An application for a permit must be made on a form provided by the Town.
- B.** All applicants must be qualified according to the provisions of this Ordinance. The application requests and the applicant shall provide information so the Town can determine whether the applicant meets the qualifications established in this Ordinance.
- C.** The Town will grant first priority for consideration of cultivation permit to applicants who have at least two (2) years of previous experience cultivating medical marijuana in compliance with 22 M.R.S. §2421 et seq., have been continuously registered with the Maine Department of Health and Human Services (DHHS) pursuant to the Medical Use of Marijuana Act, and are registered caregivers with at least three (3) medical marijuana caregiver registrations.
- D.** Application to establish a Marijuana Business
 - 1. If the applicant who wishes to operate a Marijuana Business is a single individual, this person must sign the application for a permit. If the applicant who wishes to operate an Retail Marijuana Business is more than one individual, each person who has an interest in the business must sign the application for a permit as applicant. Each applicant must be qualified under the following Sections and each applicant shall be considered a permittee if a permit is granted.
 - 2. The applicant(s) shall be the deeded owner of the property where the Marijuana Business will be located. Conveyance of the deed to another owner does not convey the permit for the Retail Marijuana Business.

3. The completed application for a Retail Marijuana Business permit 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, 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 Retail Marijuana Business under a name other than that of the applicant, they must state the Retail Marijuana Business' name and submit the required registration documents.
 - f. If the applicant or a potential employee has been convicted of any 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.
 - g. If the applicant has had a previous permit under this Ordinance or other similar Retail Marijuana Business ordinances from another Town, City, or State denied, suspended or revoked, they must list the name and location of the Retail Marijuana Business for which the permit 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 permitted under this Ordinance, whose permit 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.

- h. If the applicant holds any other permits under this Ordinance or other similar Marijuana Business ordinance from another Town, City, or State and, if so, the names and locations of such other permitted businesses.
 - i. The classification of permit for which the applicant is filing.
 - j. The location of the proposed Retail Marijuana Business, including a legal description of the property, street address, and telephone number, and a copy of the applicant's deed to property.
 - 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 permit and Social Security numbers.
 - n. A sketch showing the configuration of the subject premises, including building footprint, interior layout with floorspace 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 Marijuana Businesses within one thousand (1,000) feet of the subject property; the property lines of any public or private school within one thousand (1,000) feet of the subject property, and/or property used primarily for religious worship and related religious activities, and/or property used for permitted daycare use under 10-148 CMR c. 32, and/or recreational areas designated for use by children up to eighteen (18) years in age, and/or or areas designated as a municipal "safe zones" pursuant to 30-A M.R.S. §3253, within five hundred (500) feet of the subject property.
3. All applications for a Retail Marijuana Business permit shall be kept confidential by the Town and are for administrative purposes only due to sensitive information contained therein such as Social Security numbers, etc.
 4. All applicants (including all officers, directors, managers, members, or partners) for any adult use marijuana business permit, excepting Marijuana Testing Facilities, must have been residents of the State for a period of not less than the two (2) years immediately preceding the date of the application per Maine's State Statutes regulating Adult Use Marijuana . This requirement expires two years from the adoption date of this ordinance.

E. Application and Permit Fees

All applications must be submitted with a \$250 fee. If an application is approved, the following permit fees must be paid before the Town will issue a permit:

Retail Marijuana Store: \$1,500

Retail Manufacturing Facility: \$1,500

Retail Testing Facility: \$500

Retail Marijuana Cultivation:

Tier 1: Up to thirty (30) mature plants (and an unlimited number of immature plants and seedlings) or up to 500 SF of plant canopy: By plant count: \$10/plant; By canopy, 0-500 SF: \$300/indoor. Commercial outdoor cultivation is not permitted.

Tier 2: 501-3,000 SF of plant canopy: \$1,500/indoor.

Tier 3: 3,001-10,000 SF of plant canopy: \$5,000/indoor

Tier 4: 10,001+ SF of plant canopy: \$15,000/indoor up 30,000 square feet, plus \$5,000 for every additional 10,000 square feet.

Nursery Cultivation: Cultivation of not more than 1,000 SF of plant canopy in compliance with Maine's Statutes regulating Adult Use Marijuana: \$600 indoor. (Plant canopies of individual Nursery Cultivations are permanently capped at 1,000 SF).

Per Maine's Statutes regulating Adult Use Marijuana, every two (2) years, Tier 4 renewal applicants may seek a 10,000 SF plant canopy increase if in compliance with Maine's Statutes regulating Adult Use Marijuana.

Per Maine's Statutes regulating Adult Use Marijuana, renewal applicants for Retail Marijuana Cultivation permits may seek an increase to a higher tier if they comply with the requirements in this section

For all Retail Marijuana Permit holders, after initial permit fee, there shall be an annual renewal fee equal to 50% of initial permit fee for those holding current valid permits.

11 - 14.10 Standards for Permit:

A. General

1. Marijuana Businesses may only exist and operate where listed in the Zoning Ordinance Table of Uses. Retail Marijuana businesses may only be operated within the "Village" area (according to the Eustis Comprehensive Plan) of the Marijuana Business Overlay District. Manufacturing Facilities and Testing Facilities may exist in the Marijuana Business Overlay District. Cultivation Facilities may only exist and be operated within the Industrial district.
2. Marijuana Businesses may not be operated on property located

within:

- a. One thousand (1,000) feet of the property line of a public or private school (K-12) per Maine's Statutes regulating Adult Use Marijuana; or
 - b. One thousand (1000) feet of the property line of property used primarily for religious worship and related religious activities; property used for permitted daycare use under 10-148 CMR c. 32; recreational areas designated for use by children up to eighteen (18) years in age; or areas designated as a municipal "safe zones" pursuant to 30-A M.R.S. §3253.
4. More than one Marijuana Business (Store and/or Manufacturing Facility and/or Testing Facility) may be co-located and operated within the same building, structure, or portion thereof, as long as all ordinance and application requirements are met.
 5. Marijuana Businesses may be open for business only between the hours of 9:00 a.m. and 9:00 p.m., local prevailing time.
 6. The sale or offering for sale of Medical Marijuana and/or Medical Marijuana Products under permit and the sale or offering for sale of Marijuana and/or Marijuana Products under permit within the same premises is allowed subject to Maine's Statues regulating Adult Use Marijuana.
 7. For the purpose of subsection A.2 of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest property line of a property containing a building or structure used as the premises where a Marijuana Business is conducted, to the nearest property line of the premises of a use listed in subsection A.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.
 8. For purposes of subsection A.3 of this Section, the distance between any two properties containing a building housing one or more Marijuana Businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest property line of each property containing the building in which each business is located.
 9. Medical marijuana businesses located and operating within Eustis under and in compliance with the Maine Medical Use of Marijuana Act on or before December 31, 2016, who file applications for an Adult Use Marijuana Business permit for locations that they currently operate within and have continuously operated within since December 31, 2016, are exempt from subsections A.1 and A.2 of this section (§11-14.10.A.1&2).
 10. Security measures at all Marijuana Business premises shall include, at a minimum, the following:

- a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with ten (10) 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
- b. Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and
- c. A locking safe permanently affixed to the premises that is suitable for storage of all marijuana, marijuana products, and cash stored overnight on the permitted premises, and must conform to all State requirements.
- d. Exterior lighting that illuminates the exterior walls of the permitted 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 Town of Eustis Zoning Ordinance; Interior lighting used for growing or cultivation purposes cannot be visible from the outside of the building; and
- e. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks and bars; and
- f. Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

12. The location of the Marijuana Business must be a stand-alone building, within the approved zone for that type of business.

13. Signage for a Marijuana Business shall be minimal and discreet in content and language. No marijuana symbols or pictures may be included on the sign. The Planning Board shall pre-approve any proposed sign for the business, using the Eustis Land Use standard for signage.

14. Odor control systems shall be installed in the location for the Marijuana Business, and will be reviewed periodically by the Town of Eustis Code Enforcement Officer. Control systems shall be installed according to the manufacturer's recommendations.

B. Right Of Access/Background Check/Inspection

Every Retail Marijuana Business shall allow law enforcement officers to enter the premises at reasonable times for the purpose of checking compliance with Maine Statutes regulating Adult Use Marijuana and this Ordinance.

Due to fire, explosion, and other hazards inherent in Retail Marijuana Cultivation Cultivation and 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 annually by the Eustis 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 Eustis Fire Department.

C. Indemnification

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

By accepting a permit issued pursuant to this Ordinance, the permittee agrees to indemnify, defend, and hold harmless the Town of Eustis, 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 Retail Marijuana Business.

D. State Law

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

Compliance with Maine's Statutes regulating Adult Use Marijuana and any other applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any permit under this Ordinance, and noncompliance with Maine Statutes regulating Adult Use Marijuana and any other applicable State law or regulation shall be grounds for revocation or suspension of any permit issued hereunder.

11 - 14.11 Amendments:

A. Initiation of Amendments

An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Planning Board has so voted; or
2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial elections.

B. Public Hearing

The Planning Board 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.