

AN ORDINANCE PERTAINING TO MARIJUANA BUSINESS LICENSES

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 22 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 22

BUSINESSES

ARTICLE XV. ADULT USE AND MEDICIAL MARIJUANA

Sec. 22-420. Purpose.

The purpose of this chapter is to implement the Marijuana Legalization Act, 28-B M.R.S. §101 et seq. and the Maine Medical Use of Marijuana Act, 22 M.R.S. §2421 et seq., and to protect the public health, safety, and welfare of the residents of and visitors to the City of Lewiston by prescribing the manner in which the cultivation and distribution of marijuana can be conducted in the City. This Article XV is adopted pursuant to the authority granted by 28-B M.R.S.A. § 401 *et seq.*, as may be amended, and 22 M.R.S.A. §2429-D *et seq.*, as may be amended. In addition, this chapter:

1. _____ Provides for the safe sale and distribution of marijuana to those who qualify to obtain, possess, and use marijuana under the Marijuana Legalization Act and Maine Medical Marijuana Act;:
2. _____ Protects public health and safety through reasonable controls on marijuana cultivation, manufacturing, testing, and distribution operations as they relate to noise, air and water quality, food safety, neighborhood and customer safety, security for these operations and their personnel, and other health and safety concerns;:
3. _____ ~~To impose~~ Imposes fees to cover the City's costs of licensing the cultivation, manufacturing, distribution and sale of marijuana and enforcing the regulations outlined in this Article; and
4. _____ Adopts a mechanism for ~~the~~ monitoring compliance with the provisions of this chapter.

Sec. 22-421. Applicability.

This article shall apply to any persons or entities operating or interested in operating a Marijuana Businesses within city.

Sec. 22-422. Definitions.

For purposes of this article, the following definitions apply unless the content clearly implies otherwise:

~~*Adult use marijuana:* marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.~~

~~*Adult use marijuana product:* a marijuana product that is manufactured, distributed or sold by a marijuana establishment.~~

Adult use: the cultivation, manufacture, sale, or use of marijuana or a marijuana product by a person 21 years of age or older in accordance with MRS 28-B.

Caregiver: a person or an assistant of that person that provides care for a qualifying patient in accordance with MRS 22 § 2423-A subsection 2.

Child care facility: a “child care facility” as that term is defined in 22 M.R.S § 8301-A(1-A)(B).

City Department means any or all of the chief of police, the fire chief, the director of planning and code enforcement and their designees who administer the provisions of this chapter.

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 include manufacturing, testing or marijuana extraction.

Disqualifying offense means a conviction for a violation of a state or federal law that is (i) a crime punishable by imprisonment for one year or more or (ii) a crime punishable by imprisonment for less than one year if it is violation of the Marijuana Legalization Act, 28-B M.R.S. § 101 et seq. or the Maine Medical Use of Marijuana Act. It does not include an offense that consisted of conduct that would have been permitted under this chapter.

Dwelling: any building or structure or portion thereof designed or used for residential purposes.

~~*Enclosed, locked facility* means a closet, room, or other enclosed area within a building, or an enclosed locked facility within a greenhouse, that is equipped with locks or other security devices that permit access only by a licensee.~~

Food Establishment means a factory, plant, warehouse, or store in which food and food products are manufactured, processed, packed, held for introduction into commerce, or sold and includes a caregiver or a registered dispensary that prepares food containing marijuana for medical use by a qualifying patient. It does not include a caregiver conducting an activity for a qualifying patient who is a member of the caregiver’s family as defined in MRS

Title 22 Section 2422 5-A.

Fully enclosed, locked facility: means a structure or space within a structure which is covered on all sides with material sufficient to prevent entry other than through a door which is equipped with locks and permits access only to the licensee or a designee.

Harvested Marijuana: the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots. ~~"Harvested marijuana" includes marijuana concentrate and marijuana products.~~

Immature marijuana plant: a marijuana plant that is not a mature marijuana plant or a seedling.

Manufacture or Manufacturing: Any process involving the extraction, production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis or mechanical force.

~~"Marijuana"~~; ~~means~~ the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. ~~Marijuana"~~ includes marijuana concentrate but does not include industrial hemp as defined in Title 7, section 2231, subsection 1 or a marijuana product.

Marijuana Business: any ~~businessperson~~ involved in the cultivation, processing, testing, sale, or manufacturing of marijuana and marijuana products for commercial adult or medical use, to include including: Facilities for Marijuana Cultivation, Marijuana Manufacturing, Marijuana Testing as well as Registered Dispensaries and Marijuana Stores, or Registered Caregivers licensed under this Ordinance.

Marijuana Cultivation facility: a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package ~~adult use~~ marijuana; to sell adult use marijuana to Manufacturing Facilities, to ~~Adult Use~~ Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Marijuana Stores; cultivate, prepare and package medical marijuana at a location that is not the residence of the Registered Caregiver or Qualifying Patient

Marijuana extraction: the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Marijuana flower: is the pistillate reproductive organs of a mature marijuana plant, whether processed or unprocessed, including the flowers and buds of the plant. "Marijuana flower" does not include marijuana trim or whole mature marijuana plants.

Marijuana Nursery Cultivation Facility: a facility licensed under this ordinance to cultivate adult marijuana with not more than 1,000 SF of plant canopy pursuant to MRS 28-B Section 501.

Marijuana Manufacturing Facility: a facility licensed under this ordinance to purchase marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package ~~adult-use~~ marijuana and ~~adult-use~~ marijuana products; and to sell ~~adult-use~~ marijuana and ~~adult-use~~ marijuana products to marijuana stores and to other products manufacturing facilities; or, a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section MRS 22 Section 2423-F.

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 or a seedling.

Marijuana product: 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 product" does not include marijuana concentrate or a product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.b

Marijuana Store: a facility licensed under this ordinance where qualified individuals may purchase marijuana, immature marijuana plants and seedlings from a Cultivation Facility, purchase marijuana and marijuana products from a Manufacturing Facility and sell marijuana, marijuana products, immature marijuana plants and seedlings to consumers for their own use and not for resale or distribution.

Marijuana Testing Facility: a facility licensed under this ordinance to: develop, research and test adult use marijuana, adult use marijuana products and other substances; or authorized in accordance with MRS 22 Section 2423-A, subsection 10, to analyze contaminants in and the potency and cannabinoid profile of medical marijuana samples and is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the State of Maine.

Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's medical diagnosis or symptoms for which a medical ~~provide~~provider has provided the qualifying patient a written certification.

Multifamily dwelling means a building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units, and which is not a single-family attached dwelling.

Public park, playground or recreational facility means any of the following city-owned or operated public fields, parks, playgrounds and recreational facilities:

Child's Park;
Couture Park;

Farwell School grounds;
Franklin Pasture Athletic Complex;
Geiger School grounds;
Jude's Place at Marcotte Park;
Judge Armand A. Dufresne, Jr. Plaza;
Kennedy Park;
Knox Street Park;
Leeds Park;
Lewiston Athletic Park;
Lewiston Memorial Armory;
Lincoln Street Boat Launch and Park;
Lionel Potvin Park;
Longley School grounds;
Marcotte Park;
Mark W. Paradis Park;
Martel School grounds;
Mayer Park;
McMahon School grounds;
Mike McGraw Park; (if approved)
Montello School grounds;
Pettingill School Park;
Randall Road Softball Complex;
Raymond Park;
Ricker Park;
Riverside Greenway;
Simard-Payne Police Memorial Park;
Smiley Park;
Sunnyside Park;
Veterans Memorial Park.

Person: an individual or other entity, including a partnership, Limited Liability Company, corporation or other form of business.

Plant Canopy: the total surface area within the licensed premises of an Adult Use Marijuana Cultivation Facility that is authorized for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of non-contiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

Qualifying patient: a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with MRS 22 Section 2423-B.

Registered caregiver: a person or an assistant of that person that provides care for a qualifying patient and who is registered by the State of Maine pursuant to MRS 22 Section 24 -A.

Registered Dispensary: a person that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients as that term is defined in MRS 22 Section 2422(6), as may be amended.

Residential zoning districts: As defined in Appendix A, Article II, *residential zoning districts* are those zoning districts in which residential uses are predominate uses allowed. This shall include the following districts: Rural Agricultural (RA), Low Density Residential (LDR), Suburban Residential (SR), Medium Density Residential (MDR), Neighborhood Conservation “A” (NCA), and Neighborhood Conservation “B” (NCB).

Private school: Per M.R.S. 20-A, a *private school* is an academy, seminary, institute or other private corporation or body formed for educational purposes covering kindergarten through grade 12 or any portion thereof.

Public preschool program: Per M.R.S. 20-A, a *public preschool program* is a program offered by a public elementary school pursuant to Title 20-A, Chapter 203, that provides instruction to children who are 4 years of age, including but not limited to a Head Start program that is approved as a component of the public preschool program.

Public school: Per M.R.S. 20-A, a *public school* is a school that is governed by a school board of a school administrative unit and funded primarily with public funds.

School: means a *public school*, a *private school*, or a *public preschool program*. *School* does not include institutions of higher learning such as colleges or universities.

Testing or test: the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

Sec. 22-423. License required; exceptions.

No person shall engage, operate or maintain a Marijuana Business in the city unless such person has first acquired a license in accordance with this Article. A separate license is required for each ~~type of~~ Marijuana Business, whether located on the same premise, building, or property. In addition to such required license, no person shall engage in the manufacturing of marijuana as a home occupation unless such person has first acquired a home occupation permit in accordance with Appendix A of the Lewiston Code of Ordinances. No person shall engage in the manufacturing of marijuana as a home

occupation using inherently hazardous product or process.

The following do not require a business license:

1. Personal use. Each person 21 years of age or older who is cultivating or manufacturing marijuana for their personal medical or their personal adult use. Those persons cultivating or manufacturing for personal adult use shall:
2. Caregivers. Caregivers who manufacture or cultivate medical marijuana only for qualifying patients who are members of their household or are members of the caregiver's family in accordance with MRS 22 § 2423-A subsection 3(C).
3. Those persons who are authorized to cultivate or manufacture marijuana or marijuana products without a business license shall:
 - a. Restrict such activities to the premises at which the person is domiciled;
 - b. Cultivate and manufacture only within fully enclosed, locked structures; and
 - c. Mitigate any and all odor from marijuana plants or other marijuana products.
 - i. Odor shall not be detected off-site of the premises that are under custody or control of the person cultivating.
 - ii. Odor shall not cause or create a public nuisance at common law.
 - d. Outdoor cultivation of marijuana for personal recreational use is prohibited.

~~Each person 21 years of age or older who is growing as a primary caregiver for personal medical use and/or for personal adult use as allowed per state law and is doing so on the premises at which that person is domiciled is not subject to the licensing provisions of this ordinance as long as all cultivation is located within fully enclosed structures and any odor from marijuana plants or other marijuana products remains confined within the premises and is not detectable off-site of the premises that are under the custody or control of the individual or which create a public nuisance at common law. Outdoor cultivation of marijuana for personal recreational or medical use is prohibited.~~

~~Registered Caregivers who manufacture or cultivate medical marijuana only for themselves and/or members of their household are exempt from the requirement to obtain a permit or license as it applies to this section of ordinance. Adult use manufacturing in any structure or property with a residence is prohibited.~~

~~Unless otherwise allowed, the cultivation, manufacturing, testing or sale of marijuana from a residence is prohibited, unless it is for personal use.~~

Sec. 22-424. Food establishment~~Additional~~ licensing requirements.

1. Special Food Handler. Persons who manufacture, process, store, or sell prepared goods containing marijuana for consumption off premises shall obtain a Special Food Handler B license from the City Clerk. ~~A food establishment license must be obtained prior to preparing goods containing marijuana that are intended for~~

~~consumption.~~

- ~~2. Home occupations. Persons who manufacture, process, store, or sell prepared goods containing marijuana for consumption off premises and are authorized to do so as a home occupation shall, in addition to obtaining a Special Food Handler B license from the City Clerk, obtain a Use Permit for a home occupation from the Department of Planning and Code Enforcement in accordance with Appendix A, Articles II and V of the Code of Ordinances. Home occupations shall comply with all applicable rules set forth in this Chapter.~~ ~~Registered caregivers who manufacture prepared goods containing medical use marijuana intended for ingestion, including tinctures, at their residences must apply for and obtain a permit for a home occupation in accordance with Appendix A, Articles II and V of the Code of Ordinances, Zoning and Land Use Code, and must obtain a food establishment license from the City and the Department of Agriculture, Conservation and Forestry (DACF), and shall comply with all applicable standards set forth in this ordinance.~~
- ~~3. State licensing. Persons who manufacture, process, store, or sell prepared goods containing marijuana for consumption shall obtain all applicable and necessary licenses and permits as may be required by the State of Maine Department of Agriculture, Conservation and Forestry (DACF) and shall comply with all applicable standards set forth by DACF.~~

~~Adult use manufacturing out of a residence is prohibited, unless it is for personal use in accordance with MRS 28-B, Section 1503.~~

Sec. 22-425. Reserved.

Sec. 22-426. Background checks.

The city clerk shall order background checks from the State of Maine on all applicants for a Marijuana Businesses license. Updated background checks shall be conducted annually at the time of license renewal. Background checks shall be conducted in each state where such individuals have resided since the age of 18. It shall be the responsibility of the applicant to obtain official background checks from states in which they have resided since the age of 18.

Secs. 22-427 - 428. Reserved.

Sec. 22-429. Application requirements.

- ~~1. Form. All applications for Marijuana Business licenses under this article shall be filed with, and in a form satisfactory to, the city clerk. All applicants must be qualified according to the provisions of this Article and shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this Ordinance.~~

~~a. _____ If the applicant who wishes to operate a Marijuana Business is a single~~

individual, that person must sign the license application. If the applicant who wishes to operate a Marijuana Business is more than one individual, each person who has an interest in the business must sign the application.

- b. Each applicant must meet all qualifications set forth in this Article.
Each applicant shall be considered a licensee if a license is granted.

2. Business structure. The completed application for a Marijuana Business license shall contain, at a minimum, the following information and shall be accompanied by the specified documentation:

- a. Individuals. ~~If the applicant is an individual, t~~ The applicant's legal name and any aliases and proof that the applicant is at least twenty-one (21) years of age.

- b. Partnerships. ~~If the applicant is a partnership, t~~

- i. The complete name of the partnership; and
- ii. The names of all partners;
- iii. Whether the partnership is general or limited;
- iv. along with a copy of the partnership agreement, if any; and
- v. Proof that all partners are at least twenty-one (21) years of age.

Each general partner must sign the application. Each general partner as well as the partnership must meet all qualifications set forth in this Article. Each general partner as well as the partnership shall be considered a licensee if a license is granted.

- c. Corporations. ~~If the applicant is a corporation,~~

- i. The corporation's its complete name;
- ii. The date of its incorporation;
- iii. Evidence that the corporation is in good standing with the State of Maine;
- iv. The names and capacities of all officers, directors, and principal (owning 10% or more of the shares of the corporation) stockholders;
- v. The name of the registered corporate agent;
- vi. The address of the registered office for service of process; and
- vii. Proof that all officers, directors, and principal stockholders are at least twenty-one (21) years of age.

A corporate officer must sign the application. Each of the corporation and corporate officer must meet all qualifications set forth in this Article. Each of the corporation and corporate officer shall be considered a licensee if a license is granted.

d. Limited Liability Companies (LLCs). ~~If the applicant is a limited liability company (LLC),~~

- i. The LLC's ~~its~~ complete name;
- ii. The ~~the~~ date of its establishment;
- iii. E ~~e~~vidence that the LLC is in good standing with the State of Maine;
- iv. T ~~the~~ names and capacities of all managers and members;
- v. A ~~a~~ copy of its operating agreement, if any;
- vi. T ~~the~~ address of its registered office for service of process; and
- vii. P ~~ro~~of that all members and managers are at least twenty-one (21) years of age.

A duly authorized manager must sign the application. Each of the limited liability

company and manager must meet all qualifications set forth in this Article.

Each of the limited liability company and manager shall be considered a licensee if a license is granted.

3. Additional applicant information.

- ea. Aliases and D.B.A.s. If the applicant intends to operate the Marijuana Business under a name other than that of the applicant, the Marijuana Business' name must be stated and the required registration documents must be submitted.
- fb. Previous criminal convictions. If the applicant, an officer, principal shareholder, member, manager or employee has been convicted of criminal activity under State and/or federal law, the specified criminal offense involved must be listed including the date, place, and jurisdiction of each conviction.
- gc. Previous applications. If the applicant, as an individual, partner, or officer, director, or principal stockholder of a corporation engaged in a Marijuana Business, or the partner of a partnership, or the members or managers of a limited liability company has had a previous license application denied or had such a license suspended or revoked under this ordinance or in any other governmental jurisdiction, the applicant must list the name and location of the Marijuana Business, the reason for which the license was denied, suspended, or revoked, the date of the denial, suspension, or revocation, and the position held in the Marijuana Business.
- hd. Additional licenses and permits. If the applicant holds any other permits/licenses under this ordinance or other similar Marijuana Business license from another governmental jurisdiction, the applicant shall provide the names and locations of such other permitted/licensed businesses.

- e. Contact information. The applicant's telephone number, email address, mailing address and residential address.
- f. Identification. The applicant's driver's license or State of Maine Identification Card and, if applicable, a copy of a valid registered primary caregiver identification card issued by the State of Maine

4. Business location information.

- ia. The type of Marijuana Business for which the applicant is seeking a license.
- jb. The location of the proposed Marijuana Business, including a legal description of the property, street address, and telephone number.
- kc. Sufficient documentation demonstrating possession or entitlement to possession of the proposed ~~licensed~~ premises of the Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement, ownership, or other arrangement for possession of the premises.
- l. ~~The applicant's telephone number, email address, mailing address and residential address.~~
- m. ~~The applicant's driver's license or State of Maine Identification Card and, if applicable, a copy of a valid registered primary caregiver identification card issued by the State of Maine~~
- nd. A sketch showing the configuration of the subject premises, including building footprint, interior layout identifying floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.
- e. To prevent and control marijuana odors, an odor control plan describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises shall be completed and submitted as part of the license application.
- of. Documentation that the proposed business does not violate any of the required setbacks listed in Sec. 22-430(3). A copy of a City Tax Map depicting the property lines of the premises and the property lines of other properties containing any existing Marijuana Businesses within five hundred (500) feet of the subject property and the property lines of any pre-existing schools or child care facilities and public parks, playgrounds or recreational facilities owned by the city within seven hundred and fifty (750) feet of the subject property, measured in accordance with Section 22-430 (3) and (4).

5. Miscellaneous.

- ~~pa.~~ An nonrefundable application fee in accordance with the city's policy manual as established by the city council shall be due at the time an application is submitted.
- ~~i.~~ In the event that an application is denied or withdrawn by the applicant within 90 days of submittal, the associated application fee shall be refunded at 50 percent of the total fee. Fees for background checks are nonrefundable. Requests for refunds must be made in writing to the City Clerk.
- ~~ii.~~ Failure of the applicant to not obtain a license from the City within 180-days of submittal shall result in the denial of the license application. The applicant may apply for a 60- day extension by submitting a written request to the City Clerk within 180-days of the original submission.
- ~~iii.~~ In the event that an active or pending license is denied or revoked for failure to comply with this or any other city ordinance, no portion of the license fee shall be eligible for refund.
- ~~qb.~~ Those persons seeking to operate an adult use marijuana business must include in their application for a local license Pproof that, pursuant to 28-B M.R.S. § 402, the applicant has been issued a conditional license by the State of Maine to operate the Adult Use Marijuana Business.

~~Three (3) copies of the license application and all supporting documentation must be provided at time of application.~~

All applications for a medical Marijuana Business license shall be kept confidential by the City.

Sec. 22-430. Performance standards for Marijuana Business.

All marijuana businesses shall comply with the requirements of the City of Lewiston Code of Ordinances, Appendix A Zoning and Land Use Code, Article XII, Section 21 as well as conform to the following provisions:

- ~~1. No cultivation or storage outside of a structure of marijuana, marijuana products, or related supplies is permitted. There shall be no cultivation or storage of marijuana or, marijuana products outside of a structure.~~
- ~~2. Marijuana businesses operating with City approval prior to December 13, 2018, shall be entitled to continue operation whether such use does or does not conform to the locational requirements of Section 22-430 (3) and (4) of this Article of this Code or~~

~~applicable zoning ordinances and shall be treated as a nonconforming use pursuant to Article VI, Section 4 of the Zoning and Land Use Code. A nonconforming business may convert to another nonconforming business pursuant to Article VI, Section 4(e) of the Zoning and Land Use Code.~~

- ~~3. No marijuana business shall be sited within seven hundred and fifty (750) feet of the lot lines of pre-existing schools or child care facilities and public parks, playgrounds or recreational facilities owned by the city. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12. "Public parks, playgrounds or recreational facilities" includes those areas as defined in Section 54-8 of the Lewiston's Code of Ordinances. For purposes of this section, the term "child care facility" means a "child care facility" as that term is defined in 22 M.R.S. § 8301-A (1-A)(B), as may be amended. Setbacks shall be measured along the ordinary course of travel between the main entrance of the business and the closest lot line of pre-existing schools or child care facilities and public parks, playgrounds or recreational facilities owned by the city. If the marijuana business is located within a commercial subdivision or multi-tenant structure (i.e. business park, shopping plaza, etc.), the required setback shall be measured in the same manner. Notwithstanding the foregoing, more than one marijuana businesses may be located on the same parcel, provided all state and local requirements are met. Cultivation, manufacturing, testing, nurseries, and dispensaries operating within the industrial zoning district are exempt from this setback requirement.~~
- ~~4. Separation of marijuana stores and registered dispensaries. The minimum distance between a marijuana store or dispensary and any two other marijuana stores and/or dispensaries shall be 500 feet as measured along the ordinary course of travel between the main entrance of each premises.~~
 - ~~(a) Notwithstanding the foregoing, more than one marijuana businesses may be located on the same parcel, provided all state and local requirements are met.~~
 - ~~(b4.) A parcel with a marijuana store operating with City approval prior to December 13, 2018 is allowed to have one additional store located on the same parcel not subject to the above referenced separation requirements, provided all state and local requirements are met and if applicable, shall be treated as a nonconforming use pursuant to Article VI, Section 4 of the Zoning and Land Use Code.~~
5. Operating requirements for marijuana businesses. All activities of marijuana businesses, including, without limitation, cultivating, growing, manufacturing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana businesses are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana business must be clearly identified as such in the license application.

6. Odor management. For all marijuana businesses, the odor of marijuana, noxious gases, or other fumes, must not be detectable offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment. ~~To prevent and control marijuana odors, an odor control plan describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises shall be submitted as part of the license application.~~
- ~~7. Marijuana businesses shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the operation.~~
8. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana business must be provided and operating at all times.
9. Sufficient and appropriate security measures to deter the theft of marijuana and prevent unauthorized entrance into areas containing marijuana must be provided at all times. Security measures shall include, at a minimum, the following:
 - ~~(a.)~~ security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with interior and exterior of the premises to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
 - ~~(b.)~~ door and window intrusion alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working order;
 - ~~(c.)~~ a locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana products, medical marijuana products and cash stored overnight on the premises;
 - ~~(d.)~~ exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Code of Ordinances; and ~~(e)~~ deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
- ~~10. Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana business except in compliance with all operating and other requirements of state and local law and regulations including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.~~
- ~~11. Marijuana businesses are prohibited from having drive through pick up facilities. Marijuana businesses are prohibited from providing home delivery~~

~~services; provided, however, that registered caregivers and medical marijuana assistants may provide home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.~~

12. Manufacture of marijuana using inherently hazardous substances. The extraction of marijuana using inherently ~~dangerous~~hazardous substances is prohibited unless:
 - ~~(a.)~~ the person has sought and obtained authorization to do so with the State of Maine, and
 - ~~(b.)~~ such activity is located in a zoning district where a Marijuana Manufacturing Facility is an allowed use.
13. ~~Signs.: Notwithstanding the requirements of the Article XII, Section 16 of the Zoning and Land Use Code, all signs used by and all marketing and advertising conducted by or on behalf of a marijuana business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal to persons under 21 years of age. The signs, marketing, or advertising are prohibited from making any health or physical benefit claims. All signage shall meet the City's sign ordinance requirements and may use an image or images of the marijuana plant or plants, or parts thereof, as long such image or images do not exceed 20% of the sign face. Pictorial representations of other marijuana products, by products, or paraphernalia associated with the use or distribution of retail marijuana is prohibited.~~
14. Other laws remain applicable. A marijuana establishment shall meet all operating and other 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 and/or marijuana establishments, the stricter law or regulation shall control.
15. Businesses must satisfy all applicable State of Maine and city code requirements such as, but not limited to, electrical, plumbing, building, ventilation, energy conservation, life safety, and mechanical codes in addition to the environmental performance standards with respect to odors and other environmental considerations as per Appendix A, Article XII, Section 19.
16. ~~The cultivation of marijuana within or on the property of a multifamily dwelling is prohibited;~~
17. ~~Businesses may not be located within 300 feet as measured along the ordinary course of travel between the main entrance of the business and main entrance of a legally established dwelling in a residential zoning district, in existence prior to the establishment of the business.~~

Secs. 22-431 - 432. Reserved.

Sec. 22-433. Inspection of marijuana businesses

A marijuana business is subject to inspection as follows:

1. Submission of a license application for a marijuana business shall constitute permission for entry and inspection.
2. A marijuana business shall allow the City Department to carry out an inspection in accordance with this chapter at any reasonable time.
3. During an inspection, the City Department may identify violations of this chapter or other provisions of the Code or State Law. The marijuana business may receive written notice by certified mail of the nature of the violations. If so, the marijuana business must notify, in writing, the representative of the City Department identified in such notice within ten (10) business days of the date of the notice of violations identifying the corrective actions taken and the date of the correction.
4. Failure to cooperate with required inspections and to respond to notices of violations as specified shall be grounds for the city clerk or the City Department to temporarily suspend the license of the marijuana business, subject to potential license revocation by the city administrator.

Sec. 22-434. Denial of application.

The city clerk may deny an application for a license based on the applicant's failure to comply with the application requirements set out in these rules, including the applicant's failure to provide the required information; and/or a determination that the information provided was materially inaccurate or incomplete.

Sec. 22-435. Disqualifying conviction.

1. The City shall not approve a license for a marijuana business under any of the following circumstances:
 - (~~a~~) Disqualifying conviction. The applicant has been convicted of a disqualifying offense in Maine or another jurisdiction within the last ten (10) years.
 - (b) Disqualifying misdemeanor. The applicant has been convicted of a misdemeanor or a violation of a local ordinance involving a controlled substance, dishonesty, theft, or fraud within the past five (5) years.

- (c) False information. The applicant has knowingly submitted an application under this article that contains false information.
- (d) Insurance. The applicant has failed to demonstrate the ability to maintain adequate premises liability and casualty insurance.
- (e) State criteria. The applicant has failed to meet criteria established by the State of Maine for the operation of a marijuana business.
- (f) Tax delinquency. The applicant is tax delinquent at the local level.

~~if the applicant or applicants in the case of individual applicants; (ii) the applicant or any general partner in the case of an application by a partnership; (iii) the applicant or any officer or principal shareholder in the case of an application by a corporation; and (iv) the applicant or any manager in the case of an application by a limited liability company, has been convicted of a disqualifying offense in Maine or another jurisdiction, specifically a conviction, within the past 10 years, for a violation of a state or federal law that is a crime punishable by imprisonment for one year or more; misdemeanor convictions (or local ordinance violations) involving a controlled substance, dishonesty, theft, or fraud within the past 5 years; submitting an application that contains false information; failure to demonstrate the ability to maintain adequate premises liability and casualty insurance; failure to meet other criteria established by the State; and tax delinquency issues at the local, state, or federal level.~~

The city clerk or the City Department shall temporarily suspend the license for a marijuana business for any violations of the provisions contained within this chapter.

Sec. 22-436. Revocation of license.

Grounds for revocation of a license of a marijuana business by the city administrator include the following actions of a licensee:

1. Conviction of the licensee of selling, furnishing, or giving marijuana to a person who is not allowed to possess marijuana in accordance with these rules and the applicable state statutes.
2. Conviction of a disqualifying drug offense by the licensee.
3. Conviction of dispensing, delivering, or otherwise transferring marijuana to a person other than a registered patient who has designated the registered primary caregiver to cultivate marijuana.
4. Failure to cooperate with required inspections.
5. Failure to timely rectify any Notice of Violations.

6. Violations of any laws, rules, or ordinances that govern the operation of a marijuana business.
7. Committing, permitting, aiding or abetting any illegal practices in the operation of a marijuana business;
8. Conduct or practices that are detrimental to the safety and welfare of patient or/customers;
9. Providing information that is materially inaccurate or incomplete; and
10. Revocation or suspension of any state license or permit related to the Marijuana Business with which the licensee is associated

Sec. 22-437. Reserved.

Sec. 22-438. License administration for a marijuana business.

The city clerk and the City Department may impose conditions on the approval of any license application under this article to ensure compliance with the provisions of this article or any other provision of law. Such conditions may include, but are not limited to, the following:

- ~~(a)~~1. That the applicant provide documentation to the city clerk of the receipt of all approvals required from any federal or state agency or department pursuant to federal or state law prior to operations.
- ~~(b)~~2. That the applicant provide documentation to the city clerk of the receipt of any approvals required by any city board pursuant to this Code prior to the issuance of any license under this article.

Secs. 22-439. Appeals.

Decisions on marijuana business licenses may be appealed to the Board of Appeals in accordance with the requirements of Article IX in Appendix A of the Lewiston Code of Ordinances.

Secs. 22-440 - 441. Reserved.

Sec. 22-442. Penalty for violation of article.

Any person who violates any provision of this article or the terms of any license issued under this article may be penalized in the following manner:

- (1.) Temporary suspension. The city clerk and the City Department are authorized, pursuant to section 22-44, to immediately and temporarily suspend any license when continued operation of the licensed premises or activity presents a danger to the health, safety or the general welfare of the public.
- (2.) The city administrator may suspend or revoke a license for a marijuana business in accordance with the provisions of section 22-436 of this article.
- (3.) Civil penalties. A violator may be required to pay the penalties imposed by section 1-8 of this Code or 30-A M.R.S.A. (4452 et seq. as amended). A court judgment in the city's favor may result in a court order that the owner and/or operator of said Marijuana Business abate any violations, pay a penalty in accordance with the city's policy manual as approved by the city council, and pay the court costs and legal and expert witness fees incurred by the city. Notwithstanding the above, the chief of police may initiate criminal proceedings relative to individuals engaged in the unlawful distribution, use and cultivation of marijuana.

Sec. 22-443. Confidentiality.

All applications and supporting information submitted by primary caregivers under this ordinance, and the identity of registered primary caregivers and registered patients, shall be confidential pursuant to the Act, 22 M.R.S.A. §2425(8)A, and the Maine Freedom of Access law, 1 M.R.S.A. §402(3)(F).

Secs. 22-444 - 449. Reserved.

Note: Additions are underlined; deletions are ~~struck out~~.