

Town of Essex
Board of Selectmen
Rules and Regulations
Adult Use Marijuana Establishment License
Effective October 6, 2020

1.0 Applicability

- a) Per Section 4-17 “Marijuana – Commercial Licensing Bylaw” of the Town of Essex General Bylaws, no person or entity shall carry on the business operating an Adult Use Marijuana Establishment as defined in G.L. c.94G and 935 CMR 500.000, including the cultivation, processing, packaging, delivering, manufacturing, branding, selling or otherwise transferring or testing marijuana or marijuana products within the Town unless first duly licensed thereof by the Board of Selectmen (“Board”), which license shall be renewed by said Marijuana Establishment annually.
- b) For purposes of this licensing regulation, a person or entity operating a co-located marijuana business in which multiple state-licensed Marijuana Establishments are permitted to locate at the same address shall obtain a multiple local licenses from the Board of Selectmen, each license to govern each separate Marijuana Establishment use at that location.
- c) The following rules and regulations shall apply to all individuals, corporations or other legal entities that hold an Adult Use Marijuana Establishment License from the Cannabis Control Commission and seek a local License to operate within the Town.
- d) If a licensed establishment attempts to sell the business to a new owner, said new owner must first seek a new Host Community Agreement from the Board of Selectmen or receive permission from the Selectmen to assume the existing Host Community Agreement from the seller and shall thereafter apply for a local license, in addition to any required re-licensure at the State level.
- e) Violation(s) of any state or local law, bylaw, or rules or regulations may result in the suspension, cancelation, revocation or modification of a license.
- f) These rules and regulations may be amended or modified from time to time at the discretion of the Board.

2.0 Host Community Agreement Required

Any Marijuana Establishment operating within the Town shall at all times have a valid Host Community Agreement, or Agreements and operate in accordance with the terms and provisions thereof.

3.0 Applications

Applicants for a license shall file an application on the *Adult Use Marijuana Establishment License Form* provided herein as Appendix A, signed under the penalties of perjury by the applicant, containing such information as the Board may reasonably require from time to time.

4.0 Fees

Each Applicant/Licensee shall pay the initial application fee(s) and annual license fee(s) as noted below:

- a) Initial License Application Fee: \$750 per location.
- b) Annual License Renewal Fee: \$500 per location.

5.0 Hearing

The Board shall hold a public hearing within 60 days of receipt of a completed License Application or License Renewal Application, with due written notice provided to the Applicant of the time, date and location where such application will be heard. Applications submitted to the Board shall be reviewed by the Town Administrator for a determination of completeness prior to the scheduling of the public hearing.

6.0 Evaluation Criteria

The Board shall grant licenses with the goal of ensuring that the needs of the community are met with regard to the operation of the Marijuana Establishment and the protection of community health, safety and welfare. Applicants shall be evaluated based on compliance with the following:

- (a) The Applicant has obtained a Final License from the Cannabis Control Commission and has kept such license current and remains a Licensee in good standing with the Cannabis Control Commission;
- (b) The Applicant is in compliance with, and has, at all times, remained in compliance with all local laws and regulations, including Special Permit conditions and applicable health codes;
- (c) The Applicant has developed and successfully implemented a plan to ensure no diversion of marijuana or marijuana products to the illegal market or to minors and there have been no reported incidents of such diversion in the preceding 12 months;
- (d) The Applicant has held a Community Outreach Meeting consistent with the Cannabis Control Commission's Guidance for License Applicants on Community Outreach and has developed a community mitigation plan to address reasonable concerns of abutters and the Town; Applicants shall be required to annually update such mitigation plans and address any ongoing community impacts or concerns relating to the operation of the Marijuana Establishment as part of its license renewal;
- (e) The Applicant has made timely payment to the Town of all applicable fees and local taxes, including all payments under the Host Community Agreement; and
- (f) The Applicant is in compliance with, and has, at all times, remained in compliance with all non-monetary terms of the Host Community Agreement.

7.0 General Provisions Applicable to All Marijuana Establishments

- a) All Persons Having Direct Control and Close Associates of the Marijuana Establishment must have read, be familiar with, and comply with these Rules and Regulations and ensure all employees operate in compliance with said Rules and Regulations. No licensee shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises.
- b) Any Close Associate in control of the Licensed Premises on any given day or time shall ensure compliance with all applicable state and local laws and rules and regulations. Close Associates will be held accountable by the Board whether or not present at the Licensed Premises at the time of a disorder, disturbance or illegality of any kind.
- c) When any misconduct occurs in the area in front of or adjacent to the Licensed Premises, or in any parking lot provided by the Licensee for the use of its patrons that is not reasonably addressed and ameliorated by the Licensee, the Licensee may be held in violation of the conditions of its License and may be subject to disciplinary action.
- d) The following actions shall require notification and written approval of the Board:
 - i. Any change in the Close Associates with direct oversight of day-to-day operation;
 - ii. A change in the aggregate of more than 25% of the Persons or Entities Having Direct or Indirect Control of the Marijuana Establishment; or
 - iii. Reductions or extensions of the area of the Licensed Premises, expanded hours or changes in the physical layout of the Licensed Premises requiring a building permit which are deemed by the Building Inspector to be material in scope.
- e) All Licensees must maintain an updated list of all Marijuana Establishment Agents working at or affiliated with the Marijuana Establishment that shall be available upon request to the Board and its agents, and the Essex Police, Fire, Health and the Inspectional Services Departments' agents.
 - i. The roster/list shall have all employees and volunteers and specify which employees and/or volunteers are on duty on a particular date and time.
 - ii. The roster/list for any given day shall be kept a minimum of sixty (60) days.
- f) The Town of Essex Health Department and Building Department may conduct inspections to ensure compliance with local permits and regulations.
- g) The hours of operation for any non-retail Marijuana Establishments shall be normal business hours as proposed by the Licensee and approved by the Board.
- h) Licensees shall report to the Essex Police Department and the Board of Selectmen any breach of security, as required pursuant to 935 CMR 500.110(7), within 24 hours of their occurrence. Such reports may be redacted as necessary to comply with any applicable state

or federal laws or regulations.

- i) Licensees shall report to the Building Commissioner and Board of Selectmen any cease and desist order, quarantine order, suspension order, limiting sales order, notice of hearing or final action by the Cannabis Control Commission or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment within 48 hours of the Licensee's receipt.
- j) The Licensee shall provide the Board of Selectmen with copies of all reports submitted to any state agency, including, but not limited to, the reports required by 935 CMR 500.105(10)(d) describing the Marijuana Establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(8) within five (5) business days of submission to the State. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.
- k) The Licensee shall provide documentation to the Board of Selectmen that each Marijuana Establishment Agent affiliated with the Marijuana Establishment has completed state-required training regarding the proper handling of marijuana prior to performing job functions pursuant to 935 CMR 500.105.
 - i. Such documentation must be provided to the Board within five (5) business days of the completion of such training.
 - ii. Annually, the Marijuana Establishment shall provide documentation to the Board of Selectmen that all Marijuana Establishment Agents have received at least eight hours of on-going training as required under 935 CMR 500.105(2).
 - iii. The Licensee shall notify the Board of Selectmen of any Marijuana Establishment Agent whose Registration Card has been revoked by the Cannabis Control Commission, and the grounds therefor.
- l) If complaints to the Board of Selectmen and/or to the Police Department concerning the establishment amount to at least a ten-percent increase in Town-wide complaints and/or criminal activity is documented at the establishment to represent at least a ten-percent increase in Town-wide criminal activity, the Board of Selectmen may issue a written warning to the establishment, with the expectation for a plan from the establishment to remedy the problems. If such trends continued, the Board of Selectmen may consider license suspension or revocation.
- m) Signage size, material, and lighting must first comply with the Town's signage bylaw. After compliance for proposed signage has been verified by the Building Inspector, the Board of Selectmen shall still have a right of review and approval before signs can be produced and erected. Signage and lighting shall also comply with 935 CMR 500.105(4) "Marketing and Advertising Requirements".
- n) At night, at all times, the premises of the establishment shall be well-lit to discourage illegal activity.

8.0 Operational Provisions Applicable to Retail Marijuana Establishments

- a) No alcoholic beverages may be sold at the Licensed Premises.
- b) No consumption of products sold at the establishment shall be allowed on the premises or on any Town property.
- c) Licensees shall not permit more patrons on the premises than the capacity number approved by the Board, subject to the following:
 - i. A Retail Marijuana Establishment may be required, in the discretion of the Board, to employ crowd management measures for any Retail Marijuana Establishment, including, but not limited to appointment systems, police details, off-site shuttle services, or on-site queuing plans to ensure minimal disruption to pedestrian and vehicular traffic.
 - ii. The hours of operation of any Retail Marijuana Establishment shall be determined by the Board. In the absence of such determination, the hours of operation of any Retail Marijuana Establishment shall be limited to 9am to 9pm, Sunday through Saturday.

9.0 Definitions

- a) **Close Associate:** a person who holds a relevant managerial or operational interest in the business of a licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operations of a Marijuana Establishment.
- b) **Host Community Agreement:** an agreement, pursuant to M.G.L. c.94G, s.3(d), between a Marijuana Establishment and a municipality setting forth additional conditions for the operation of a Marijuana Establishment, including stipulations of responsibility between the parties.
- c) **Persons or Entities Having Direct Control:** any person or entity having direct control over the operations of a Marijuana Establishment, which satisfies one or more of the criteria established in 935 CMR. 500. 002.
- d) **Persons or Entities Having Indirect Control:** any person or entity having indirect control over operations of a Marijuana Establishment, including any person with a controlling interest in an indirect holding or parent company of the applicant, and the chief executive officer and executive director of those companies or any person or entity in a position indirectly to control the decision-making of a Marijuana Establishment.
- e) **License:** the certificate issued by the Board of Selectmen to operate a Marijuana Establishment within the Town of Essex. Licenses shall be valid for one year and subject to annual renewal.
- f) **Licensee:** a person or entity licensed by the Board of Selectmen to operate a Marijuana Establishment within the Town of Essex under Section 4-17 of the Essex General Bylaws.
- g) **Licensed Premises:** any location over which a Marijuana Establishment or its agents may lawfully exert substantial supervision or control over entry or access to the property or the conduct of persons.
- h) **Marijuana Establishment Agent:** a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.
- i) **Marijuana Establishment:** an Adult Use Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business as defined in G.L. c.935 CMR 500.002, except a medical marijuana treatment center.

10.0 Enforcement

The Board of Selectmen may issue orders as appropriate to aid in the enforcement of this regulation and may enforce these provisions in equity, including the request for injunctive relief in a court of competent jurisdiction. Any failure to comply with any order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of \$100.00. Any failure to comply after the issuance of said fine may be punishable by a subsequent fine of \$300.00. Each day of a continued non-compliance shall constitute a separate violation. Further, the Board of Selectmen may hold a hearing, with notice to the licensee, to determine if such license should be modified, suspended or revoked.

Appendix A. Application for Adult-Use Marijuana License

Marijuana Use License & Permit

- ☐ New ☐ Renewal (The license application fee is \$750 for each new proposed use and \$500 for renewals.)
(Note: A separate application and license is required for each physical business location)

Establishment Name:	
Establishment Street Address:	
Establishment Mailing Address:	
Establishment Telephone Number:	
Assessor Map & Lot of Proposed Location:	
Zoning District of Proposed Location:	
Print Applicant Name:	
Applicant Address:	
Applicant Telephone #:	
Applicant Email Address:	
Print Owner/Corporate Name:	SSN/TIN:
Is this a chain or independent?	
Owner/Corporate Address:	
Owner/Corporate Telephone #:	
Owner/Corporate Email Address:	
Person directly responsible for daily operations:	
Operations Person Title:	
Operations Person Address:	
Operations Person Telephone #:	24/7 Emergency Phone #:
Operations Person Email Address:	

Check all applicable proposed Use(s):

Use	Check if Applicable	Date of Planning Board Approval*	Date of Board of Health Approval*
Marijuana Cultivator			
Marijuana Research Facility			
Marijuana Product Manufacturer			
Marijuana Testing Facility			
Marijuana Retailer			
Marijuana Transportation or Distribution Facility			
Medical Marijuana Treatment Center—Retail			
Medical Marijuana Treatment Center—Cultivation and Processing			

* Note: Any applicable Planning Board and Board of Health permits must be approved prior to applying for a license from the Board of Selectmen

Documentation: Provide a complete explanation of how the applicant meets all of the evaluation criteria contained in Section 6.0 of the Essex Rules & Regulations for Adult Use Marijuana Establishments.

I certify under the penalties of perjury that, to the best of my knowledge and belief, I have filed all required federal and state tax returns and paid all applicable federal, state, and Town of Essex taxes required under law. I certify that I will abide with all applicable state and Town of Essex regulations, bylaws, and Host Community Agreement(s) between the company and the Town of Essex.

License and Permit Valid through: _____

Signature of owner, manager or corporate officer and title.

Date

Print name of owner, manager or corporate officer and title.

*Social Security or Federal Identification Number

E-mail of above

Phone number of above

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FOR OFFICE USE ONLY:

Date Received: \_\_\_\_\_

License Granted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Fee Received: \$ \_\_\_\_\_

Board of Selectmen

Hours of Operation:

Permitted Hours

(May not exceed those allowed by Planning Board, Board of Health, or Selectmen)

|                       |  |
|-----------------------|--|
| Monday through Friday |  |
| Saturday              |  |
| Sunday                |  |
| Federal Holidays      |  |

*\*Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Licensees who fail to correct their non-filing or delinquency will be subject to license suspension or revocation. This request is made under the authority of Mass. G.L. c.62C s.49A.*