

**AMENDMENTS TO TOWN OF BRIDGTON
VICTUALERS LICENSING ORDINANCE TO
REQUIRE MARIJUANA ESTABLISHMENTS TO
OBTAIN A LOCAL LICENSE**

**PREPARED FOR TOWN OF BRIDGTON REFERENDUM ELECTION
TO BE HELD ON NOVEMBER 3, 2020**

The Town of Bridgton Victualers Licensing Ordinance is proposed to be renamed to the "Town of Bridgton Victualers and Marijuana Establishments Licensing Ordinance" and is further proposed to be amended by deleting the words shown below in strikethrough (~~strikethrough~~) form and by adding the words shown below in underline (underline) form.

INDEX

- I. PURPOSE AND AUTHORITY
- II. DEFINITIONS
- III. LICENSE REQUIRED
 - A. Victualer's License
 - 1. Exemptions
 - B. Marijuana Establishment License
 - 1. Exemptions
- IV. LICENSING AUTHORITY
- V. APPLICATIONS; REVIEW PROCEDURES
 - A. Applicant
 - B. Applications and Fees
 - C. Initial Screening
 - D. Renewals
- VI. ISSUANCE OR DENIAL OF A LICENSE; INSPECTIONS
 - A. Review Criteria
 - B. Condition Precedent
 - C. Conditions of Approval
 - D. License Term
 - E. Inspections
 - 1. Initial License Inspection
 - 2. Compliance Inspections
- VII. SUSPENSION OR REVOCATION OF LICENSE; DETERMINATION OF VIOLATIONS
- VIII. ASSIGNMENT OR TRANSFER
- IX. APPEALS
- X. PENALTY
- XI. SEVERABILITY

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TOWN OF BRIDGTON
VICTUALERS ~~AND MARIJUANA ESTABLISHMENTS~~ LICENSING ORDINANCE

Enacted 11/08/2011 (as the Town of Bridgton "Victualers Licensing Ordinance")
Revised _____, 2020 (as the Town of Bridgton "Victualers and Marijuana Establishments
Licensing Ordinance")

I. PURPOSE AND AUTHORITY

This Victualers and Marijuana Establishments Licensing Ordinance (the "Ordinance") is enacted pursuant to 30-A M.R.S. § 3001, 22 M.R.S. § 2429-D and 28-B M.R.S. § 402. The purpose of the Victualers Licensing Ordinance is to (a) ensure that establishments serving food or drink prepare their food and drink in a safe and sanitary environment and (b) to set forth procedures and standards for the issuance of municipal licenses for Marijuana Establishments in order to protect the public health, safety and welfare.

II. DEFINITIONS

For purposes of this Ordinance, the following terms shall have the meanings set forth in the Town of Bridgton Land Use Ordinance, as may be amended from time to time: Marijuana Establishment; Marijuana Home Cultivation; Medical Marijuana Small-Scale Caregiver Operation.

III. LICENSE REQUIRED

A. Victualer's License. Except as provided in Section III.A.1, below, Any establishment that serves food or drink prepared for consumption by the public within the corporate boundaries of the Town of Bridgton shall be required to annually apply for and ~~be issued~~ possess a Victualer's License. A Victualer's License shall be specific to the premises and entity which is requesting the license. For example, a facility which is owned or operated at more than one location, or in the same location and is operated by different parties or personnel or which are physically separated, shall require separate permits. However, no license shall be required for an establishment which only serves food or drink prepared by a licensed establishment or by a licensed catering firm.

31. Exemptions. The following establishments are exempt from applying for and possessing a Victualer's License:

a. A Public or Private School, Public Service Organization, Private Club, Church Organization, Fire Department, or any other non-profit organization selling food or drink on an infrequent basis to solely raise money for a charitable cause ~~shall be exempt from the requirements of this license.~~

b. ~~Grocery stores, except those selling food items prepared on the premises, shall be exempt.~~

c. ~~Establishments selling food and drink only through vending machines shall also be exempt.~~

~~The This~~ local exemption does not relieve an ~~organization establishment~~ of state requirements ~~or other applicable ordinances, laws, and regulations~~. The Municipal Officers ~~or Town Clerk~~ shall have the authority to decide if an establishment is exempt.

B. ~~Marijuana Establishment License. Except as provided in Section III.B.1, below, effective January 1, 2021 (the "Effective Date"), a Marijuana Establishment may not begin or continue operations unless it has received and is in possession of a Marijuana Establishment License issued pursuant to this Ordinance. A Marijuana Establishment that holds a Town of Bridgton site plan review permit and/or is operating as of the Effective Date shall submit a completed license application within 30 days of the Effective Date but shall have a grace period of 60 days after the Effective Date to receive a Marijuana Establishment License, which grace period may be extended by order of the Municipal Officers for good cause shown. A Marijuana Establishment License shall be specific to the premises, the Licensee, and the category of Marijuana Establishment identified in the application and approved in the license. A Licensee who intends to include a new category of Marijuana Establishment on the same premises or convert a Marijuana Establishment to another category that is not specifically approved in a license must obtain a new license for the expansion or change of use of the Marijuana Establishment.~~

1. ~~Exemptions. The following establishments are exempt from applying for and possessing a Marijuana Establishment License:~~

a. ~~Marijuana Home Cultivation.~~

b. ~~Medical Marijuana Small-Scale Caregiver Operations.~~

~~This local exemption does not relieve an establishment of state requirements or other applicable ordinances, laws, and regulations. The Municipal Officers shall have the authority to decide if an establishment is exempt.~~

IV. LICENSING AUTHORITY

~~The Municipal Officers shall have the authority to approve or disapprove all applications and renewal applications for Victualer's Licenses or Marijuana Establishment Licenses.~~

4V. APPLICATIONS; REVIEW PROCEDURES

~~The following review procedures shall apply for initial license applications, as well as renewal license applications. In reviewing a license application, the Municipal Officers may consider the requirements under this Ordinance and other applicable ordinances, laws, and regulations and, for license renewals, the Licensee's record of compliance with the same.~~

A. ~~Applicant: For the purposes of this eOrdinance, the applicant shall be the principal owner of the establishment. If the owner is a corporationbusiness entity, the applicant shall be every officer, director, member, manager, and general partner of the business entity, the principal stock holder of that corporation. If the principal owner of the establishment, or the principal stockholder of the~~

~~corporation owning the establishment, applicant~~ is not the person primarily responsible for the actual operation of the establishment, then the person(s) primarily responsible for the actual operation of the establishment, ~~as well as the owner,~~ shall be ~~reviewed as~~ co-applicant(s) together with the ~~owner~~applicant. ~~The applicants and co-applicants are collectively referred to as "Applicant" in this Ordinance.~~

AB. Applications and Fees: An Applicant for a Victualer's or Marijuana Establishment License shall file with the Town Clerk a license application on a form prescribed by the Town Clerk, together with the following:

1. A nonrefundable license application fee as provided in the Town of Bridgton Fee Schedule.
2. Evidence of all state and other municipal approvals required to operate the establishment including, as applicable, a copy of the Applicant's state license application and supporting documentation, as submitted to the state licensing authority. If an application for such approval is pending as of the date a license application is filed with the Town, the Applicant must submit a copy of the state licensing application.
3. A statement identifying all owners, officers, directors, members, managers, and general partners comprising the Applicant and their ownership interests in the establishment.
4. A release for each Applicant allowing the Town to obtain criminal records and other background information related to the individual(s). Failure to submit required releases for a background check is grounds for denial of a license. The cost of the background check shall be borne by the Applicant and shall be in addition to the application fee.
5. A description and plan of the establishment for which a license is being sought.
6. If the application is for a Marijuana Establishment License, (i) the specific categories of Marijuana Establishment for which the license is being sought (i.e., adult use marijuana cultivation facility, adult use marijuana products manufacturing facility, adult use marijuana store, adult use marijuana testing facility, medical marijuana caregiver retail store, medical marijuana inherently hazardous substances extraction operation, medical marijuana large-scale caregiver operation, medical marijuana manufacturing facility, medical marijuana registered dispensary, or medical marijuana testing facility); (ii) copies of any state or municipal licenses held by the Applicant for any other marijuana establishments owned or operated by the Applicant in Maine, as well as any notices of violation received from the state or any municipality for such marijuana establishment and proof that any violation has been resolved.

C. Initial Screening: The Town Clerk shall initially review the license application to ensure that it is complete and to obtain review comments from the Town's Police Chief, Fire Chief, and Code Enforcement Officer. If the Town Clerk determines that an application is incomplete, the Town Clerk shall notify the Applicant of the additional information required to process the application. If such additional information is not submitted within 30 days of the Town Clerk's request, the Town Clerk may return the application as incomplete and the application shall be deemed denied.

BD. Renewals: Renewal license applications must be submitted to the Town Clerk in accordance with subsections B and C, above. The Municipal Officers shall annually review all renewal applications based on the review criteria set forth in Section VI.A, below, and for the purpose of determining the status of the ~~e~~Applicant's previous conformance to this ~~e~~Ordinance and all other applicable

ordinances, laws, and rules and at such time make a decision ~~as~~ to (1) approve the renewal request, (2) table the renewal request, setting a date for the ~~a~~Applicant to come before the Municipal Officers to answer questions affecting consideration of the renewal request, or (3) for reason(s) noted, disapprove the request. Applicants for renewal shall submit a completed application with fees annually to the Town Clerk at least 30 days prior to the expiration date of the license.

~~C. New Applications: New applicants may apply to the Town Clerk at any time during the year.~~

~~D. License Term: A license, when granted, shall be valid immediately following said granting of license and will expire on May 31st.~~

4VI. ISSUANCE OR DENIAL OF A LICENSE; INSPECTIONS

~~A. Review Criteria: The Municipal Officers shall license persons of good moral character to establish or operate an establishment in accordance with the requirements set forth in this Ordinance and all other applicable ordinances, laws, and regulations. In determining whether to issue a license or deny a license application, the Municipal Officers shall consider ~~may deny the application for a license for one or more of the reasons described as follows:~~~~

~~1. If Whether the aApplicant has failed any part of a state inspection or local health inspection.~~

~~2. Whether the Applicant has failed to provide sufficient evidence of compliance with applicable ordinances, laws, and regulations.~~

~~23. If Whether the aApplicant is ~~not~~ of good moral character. In determining good moral character, the Municipal Officers shall consider all evidence presented but shall, in addition, check the ~~a~~Applicant's police criminal record, if any. Conviction of a class D or more serious crime ~~may be~~ considered as-prima facie evidence that the ~~A~~applicant lacks good moral character.~~

~~34. Whether the Applicant has failedFailure to pay an outstanding fine, penalty, or tax owed to the Town of Bridgton ~~by the individual, corporation or principal stockholder of the corporation that is applying for the license.~~~~

~~5. If the Applicant is requesting a Marijuana Establishment License, whether the Applicant has had a license required for a Marijuana Establishment suspended or revoked by the Town, by another Maine municipality, or by the State.~~

~~6. Whether the Applicant has provided false or misleading information in connection with the license application.~~

~~In reviewing any license application pursuant to this Ordinance, the Municipal Officers may require and solicit review comments concerning the above-identified considerations from any public officers, departments, or boards of the Town.~~

~~B. Condition Precedent: If a Licensee or establishment licensed under this Ordinance is also required to be licensed by a state authority created for the purpose of regulating and controlling the licensing of eating establishments or marijuana establishments, any license granted under this Ordinance shall not become effective until such date that the required state license issues; provided, however,~~

that the failure to secure a required state license before obtaining a license from the Municipal Officers shall not toll the expiration date of the license as provided in subsection D, below.

C. Conditions of Approval:~~5. REQUIREMENTS AND CONDITIONS~~ Establishments must operate in accordance with all material representations made in the license application. The Municipal Officers may ~~place~~ attach to any license issued pursuant to this Ordinance additional conditions and requirements on the license. These conditions and requirements must be that are reasonably designed to promote the health, safety, or welfare of the Ppublic. Examples of possible conditions include, but are not limited to, specific opening and closing times, and measures designed to reduce noise.

D. License Term: A license, when granted, shall be valid immediately following said granting of license and will expire one year from the date the license was granted. A Licensee who fails to obtain a renewal license prior to the expiration of the license shall cease operations until a renewal license is granted.

E. Inspections:

1. Initial License Inspection: An Applicant requesting a license for the first time shall have the establishment inspected by the Code Enforcement Officer, Police Chief, and Fire Chief prior to any action being taken on the license application by the Municipal Officers. Any alterations or changes to an establishment during the course of the Municipal Officers' review will require additional inspections.

2. Compliance Inspections: The Code Enforcement Officer, Police Chief, and Fire Chief shall have the authority to enter, with or without notice, a Licensee's premises to make any inspection reasonably necessary to determine compliance with the requirements of this Ordinance.

~~6.~~ FEES

~~The fees for a License shall be adopted by the Board of Selectmen through the Fee Schedule.~~

~~7~~VII. SUSPENSION OR REVOCATION OF LICENSE; DETERMINATION OF VIOLATIONS

If after investigation, notice, and hearing, the Municipal Officers conclude that ~~the a~~ Licensee is unfit to hold a license granted under this Ordinance, ~~it the Municipal Officers~~ may suspend or revoke the license at any time. The suspension or revocation of a license issued by the State, the failure of a Licensee to acquire and maintain all necessary local and state approvals, or the violation by a Licensee of any applicable ordinances, laws, and regulations (including without limitation life safety code requirements) shall be prima facie evidence that the Licensee is unfit to hold a license. The Municipal Officers, ~~for any cause which it considers satisfactory~~, may suspend a license for any period of time that it considers proper. The Municipal Officers may also determine that an establishment which has not obtained a license is required to obtain a license, or that a licensed establishment has violated conditions and restrictions applicable to its license. Prior to ordering the suspension or revocation of a license or determining a license violation, ¶the Municipal Officers shall provide the Licensee, at least three days prior to the hearing date, notice of the time and place of the hearing at which any of these issues the license suspension, revocation, or violation will be considered. At the hearing, the Licensee shall be given an opportunity to hear the evidence in support of the charges against the Licensee and to be heard in the Licensee's own defense.

- ~~A. — Compliance Certification: An establishment requesting a Victualers License or renewal of the same shall certify to the Municipal Officers and prove to said Officers' satisfaction that it is not in violation of any Municipal Ordinance, including Zoning, or State or Federal Law, Statute or Regulation. The applicant shall also certify that all taxes, fines or penalty assessed by the Town of Bridgton on the establishment or equipment and fixtures contained therein are fully paid, as of the date of the application. The Municipal Officers shall deny any application which fails to meet these requirements.~~
- ~~B. — Inspection: An establishment requesting a license for the first time shall be inspected by the Codes Enforcement Officer and Fire Chief prior to any action being taken on the license application. Any alterations or changes to an establishment will require additional inspections.~~
- ~~C. — Application Form: An establishment shall apply for a Victualers License or renewal on a form designed for that purpose by the Town of Bridgton. Failure of an applicant to fill out the form completely or any misstatements on said form shall result in the denial of the license.~~
- ~~D. — Health: An establishment licensed as a Victualer, and providing for on premises food consumption, shall provide with its renewal application a copy of its current state "Eating License" issued by the Department of Health Services. A new application shall be granted by the Municipal Officers only under the condition that the Victualer License becomes effective after the Department of Health Services has issued a current state "Eating License."~~

VIII. ASSIGNMENT OR TRANSFER

No license issued under this Ordinance may be assigned or transferred to another entity. Any change in ownership of a licensed establishment shall require a new license. Licenses are limited to the premises for which they are issued and are not transferrable to another location. A Licensee seeking to operate in a new location must first acquire a license for that location.

IX. APPEALS

An appeal from any final decision of the Municipal Officers made pursuant to this Ordinance shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

9X. PENALTY

Penalty: Any act made unlawful by this Ordinance and any violation of this Ordinance shall be a civil violation subject to a penalty in accordance with 30-A M.R.S. § 4452. punishable by a fine of not less than \$25.00 and not more than \$100.00 for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense. The Municipal Officers or their designee shall enforce the provisions of this Ordinance.

10XI. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.