

**Town of Kennebunkport
Board of Selectmen Meeting
Village Fire Station – 32 North Street
May 11, 2017 – 7:00 PM**

Minutes of the Selectmen Meeting of May 11, 2017

Selectmen present: Stuart E. Barwise, Edward W. Hutchins, and Sheila Matthews-Bull

Selectmen absent: Allen A. Daggett and Patrick A. Briggs

Others present: Sarah Adams, Ralph Austin, Ted Carter, Michael Claus, Michael Davis, Steve Doe, Werner Gilliam, David James, Crystal McCurdy, Lee McCurdy, Arlene McMurray, Nina Pearlmutter, Laurie A. Smith, Chris Welch, and others

1. Call to Order.

Chair Barwise called the meeting to order at 7:00 PM.

2. Approve the April 13, 25, 27, and May 1, 2017, selectmen meeting minutes.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the April 13, 25, and 27, 2017, selectmen meeting minutes. **Vote: 3-0**

3. Consider a liquor license renewal application for CAI Properties, LLC, d.b.a. Cape Arundel Inn, 208 Ocean Avenue.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the liquor license renewal application for CAI Properties, LLC, d.b.a. Cape Arundel Inn, 208 Ocean Avenue. **Vote: 3-0.**

Town Manager Laurie Smith announced that the inspections have not been performed on any of the liquor licenses and asked if the Board would approve them on condition they pass inspection.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to withdraw her motion. **Vote: 3-0.**

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the liquor license renewal application for CAI Properties, LLC, d.b.a. Cape Arundel Inn, 208 Ocean Avenue with the condition that it passes inspection. **Vote: 3-0.**

4. Consider a special amusement permit renewal application for CAI Properties, LLC, d.b.a. Cape Arundel Inn, 208 Ocean Avenue.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the special amusement permit renewal application for CAI Properties, LLC, d.b.a. Cape Arundel Inn, 208 Ocean Avenue with the condition that it passes inspection. **Vote: 3-0.**

5. Consider a liquor license renewal application for Tides Beach Club, LLC, d.b.a. Tides Beach Club, 254 Kings Highway.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the liquor license renewal application for Tides Beach Club, LLC, d.b.a. Tides Beach Club, 254 Kings Highway with the condition that it passes inspection. **Vote: 3-0.**

6. Consider a special amusement permit renewal application for Tides Beach Club, LLC, d.b.a. Tides Beach Club, 254 Kings Highway.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the special amusement permit renewal application for Tides Beach Club, LLC, d.b.a. Tides Beach Club, 254 Kings Highway with the condition that it passes inspection. **Vote: 3-0.**

7. Consider a liquor license renewal application for The Boathouse of Kennebunkport, LLC, d.b.a. The Boathouse Hotel, 21 Ocean Avenue.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the liquor license renewal application for The Boathouse of Kennebunkport, LLC, d.b.a. The Boathouse Hotel, 21 Ocean Avenue, with the condition that it passes inspection. **Vote: 3-0.**

8. Consider a special amusement permit renewal application for The Boat house of Kennebunkport, LLC, d.b.a. The Boathouse Hotel, 21 Ocean Avenue.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the special amusement permit renewal application for The Boathouse of Kennebunkport, LLC, d.b.a. The Boathouse Hotel, 21 Ocean Avenue, with the condition that it passes inspection. **Vote: 3-0.**

9. Consider a liquor license renewal application for Fishing Pole Lane, LLC., d.b.a. Hidden Pond, 354 Goose Rocks Road.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the liquor license renewal application for Fishing Pole Lane, LLC., d.b.a. Hidden Pond, 354 Goose Rocks Road with the condition that it passes inspection. **Vote: 3-0.**

10. Consider a special amusement permit renewal application for Fishing Pole Lane, LLC., d.b.a. Hidden Pond, 354 Goose Rocks Road.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the special amusement permit renewal application for Fishing Pole Lane, LLC., d.b.a. Hidden Pond, 354 Goose Rocks Road, with the condition that it passes inspection. **Vote: 3-0.**

11. Consider a liquor license renewal application for Ivy One, LLC., d.b.a., Old Fort Inn, 8 Old Ford Avenue.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the liquor license renewal application for Ivy One, LLC., d.b.a., Old Fort Inn, 8 Old Ford Avenue, with the condition that it passes inspection. **Vote: 3-0.**

12. 7 PM Public Hearing to consider the following warrant articles for June Town Meeting:

Chair Barwise opened the public hearing at 7:06 PM.

Ms. Smith explained each warrant article.

a. Amendment to the Shellfish Ordinance.

b. Amendment to the Administrative Code.

c. Enactment of Key Lock Box Ordinance.

There were no comments.

Chair Barwise closed the public hearing at 7:07 PM.

13. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda.).

There were no comments.

14. Approve certification of the proposed ordinances.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the certification of the proposed ordinances. **Vote: 3-0.**

15. Consider the Arbor Day Proclamation.

Sarah Adams, member of the Shade Tree Committee, read the Arbor Day Proclamation.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the Arbor Day Proclamation. **Vote: 3-0.**

16. Consider request to install landscaping material in the Town right of way at the corner of Langsford Road and Pier Road.

Ms. Smith said that she along with Public Works Director Mike Claus, Selectmen Barwise and Matthews-Bull met with Tim Harrington on site to address parking and other concerns discussed at the August 13 Selectmen's Meeting. They came up with a new plan that was also reviewed by Town Attorney Amy Tchao.

Selectman Hutchins requested some delineation so that people recognize that it is public parking. The Board agreed to leave this up to Mr. Claus to work with the landscaper and determine which materials to use.

Attorney Ralph Austin reminded them that the agreement would be recorded at the Registry of Deeds.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the request to install landscaping material in the Town right of way at the corner of Langsford Road and Pier Road with the modifications mentioned above. **Vote: 3-0.**

17. Award bid for Chicks Creek and Green Street pump stations upgrades.

Mike Claus announced that two bids were received:

Vendor	Bid
Penta Corporation	\$813,900.00
T. Buck Construction	\$941,976.00

He said staff recommends awarding the bid to Penta Corp. The project will begin after Columbus Day.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to award the Chicks Creek and Green Street pump station upgrades bid to Penta Corporation for a total cost of \$813,900. **Vote: 3-0.**

18. Consider the Government Wharf budget.

Chris Welch, chair of the Government Wharf Committee, explained their budget.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the Government Wharf budget. **Vote: 3-0.**

19. Consider a request to reserve parking spaces at Government Wharf for commercial fishermen.

Mr. Welch explained that their request is time based. He said the Government Wharf Committee would like to have 6-8 parking spaces reserved for only commercial fishermen from 5 AM to 10 AM. There are approximately 20 spaces on the lot, depending on how people park. He said that the spaces would only be for captains.

Ms. Smith said that they would use a parking sticker system and monitor it.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the request for up to 10 parking spaces at Government Wharf for commercial fishing boats from 5 AM to 10 AM and to give the Town Manager and Police Department the authority to determine parking space locations and the monitoring system. **Vote: 3-0.**

20. Consider the Cape Porpoise Pier budget.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the Cape Porpoise Pier budget as written. **Vote: 3-0.**

21. Authorize rounding to the nearest dollar in collection of building permit fees.

Director of Planning and Development Werner Gilliam explained that his department uses two software programs: Vision for assessing and Trio for finances. Vision rounds out numbers to the nearest dollar, while Trio puts in the exact amount. For ease of accounting, he would like authorization to round out the numbers to the nearest dollar for permit fees.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to authorize the Planning and Development Department to round out numbers to the nearest dollar for permit fees. **Vote: 3-0.**

22. Authorize write-off of uncollected personal property taxes.

Ms. Smith said that they were reviewing uncollected personal property taxes and found out that they were left from businesses that no longer exist. She said the oldest one is from 2004. She commented that she received payment from Lanigan which now leaves a balance of \$788.39.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the write-off of uncollected personal property taxes. **Vote: 3-0.**

23. Amend Sewer Use Ordinance Article V. Sections 2 and 14.

This item was deferred until the next meeting.

24. Review of Recreational Marijuana Presentation.

The Board attended a meeting on May 1 regarding recreational marijuana (see Exhibit B) which will be on the Town's cable channel 2.

The Board discussed the need to get information out to the public and to also receive public input to properly manage this. Some suggestions were to publish information in the Town newsletter and to have a public forum with experts from both sides.

Ms. Smith explained the five types of licenses and announced the schedule of dates and steps in the paperwork process for this item to be on the November Town Meeting Warrant (see Exhibit C).

David James said 90% of the public still does not understand the law regarding recreational marijuana and suggested sending out a survey. He said they need an explanation on the difference between medical and recreational marijuana and that Dr. Mary Rice is a good source.

Nina Pearlmutter also commented about how little people know about the newer forms of marijuana and the need for more information about the effects of cannabis.

Ms. Smith said Amy Tchao's office gives a good presentation which might be helpful. She will talk to Ms. Tchao and have a representative come to a Selectmen's Meeting and present the highlights. She will also try to put together some educational pieces to send out with the tax bills.

Chair Barwise would like to retain this on future agendas to keep people talking.

25. Accept a \$50 donation from Peter and Ann Bergin to the Conservation Commission in memory of Elizabeth "Pixie" Lown.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to accept a \$50 donation from Peter and Ann Bergin to the Conservation Commission in memory of Elizabeth "Pixie" Lown. **Vote:** 3-0.

26. Sign the Certificates of Commitment of Sewer User Rates.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the Certificates of Commitment of Sewer User Rates of \$444. **Vote:** 3-0.

27. Other business.

Ms. Smith announced that the rededication of the Mat Lanigan Bridge is at 4 PM, on May 19. She stated there will be a ribbon cutting. She said the old bridge had flower boxes and that the DOT is allowing them to put them back at the Town's expense. She said the Town's share of the maintenance cost with Kennebunk is \$1,375.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve taking \$1,375 from the Dock Square Parking Lot account to plant and maintain the flowers in the flower boxes at Dock Square. **Vote:** 3-0.

28. Approve the May 11, 2017, Treasurer's Warrant.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the May 11, 2017, Treasurer's Warrant. **Vote:** 3-0.

29. Adjournment.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to adjourn. **Vote:** 3-0.

The meeting adjourned at 8:10 PM.

Submitted by

Arlene McMurray
Administrative Assistant

EXHIBIT A – May 11, 2017

Narrative to accompany landscape plan revisions for:

#1 Pier Road

#3 Langsford Road

For many years the parking was never clearly defined for either of these two buildings.

With extensive renovations and re-purposing of these two buildings establishing clarity to off street parking is essential. The attached plan allows two full size vehicles to park completely off Langsford Road. The parking at #1 Pier Road has been in place for many years and will remain unchanged. A new driveway will be cut in and used for the residents in #3 Langsford Road.

A small 3.5 foot picket fence with one arbor and two gates will also be installed with climbing plantings to provide a bit of privacy primarily for #3 Langsford Road.

It is understood that much of this work is being executed on town land and that the owners of these properties will need to repair any damage done by the town with snow plowing and removal.

All proposed parking areas will be finished in crushed shell.



LANDSCAPING AGREEMENT

JTJ Development, LLC ("JTJ"), the owner of property at 1 Pier Road in Cape Porpoise (the "Property"), in consideration of the Town of Kennebunkport (the "Town") allowing certain landscaping adjacent to the Property, located within the bounds of Langsford Road, hereby agrees as follows:

1. JTJ will install the landscaping in accordance with the Plan approved by the Board of Selectmen at its meeting on May 11, 2017. JTJ agrees that there will be no changes to the landscaping (other than removing any of the landscaping) without prior approval from the Board of Selectmen.

2. JTJ understands and agrees that it is responsible for the maintenance and upkeep of the landscaping within the bounds of Langsford Road, and that the Town has no responsibility for any such maintenance and upkeep. JTJ further understands that the Town may damage some of the landscaping in the process of winter snowplowing or other road maintenance; and JTJ agrees that the Town will have no responsibility or liability for the repair of any such damage.

3. JTJ further understands that, by virtue of the Board of Selectmen's decision to allow landscaping within the bounds of Langsford Road, it does not acquire any rights in or to the land area on which the landscaping is located. JTJ understands and agrees that the Town can require JTJ to remove any or all of the landscaping within the bounds of Langsford Road, upon thirty (30) days written notice to JTJ, if the Town needs all or a portion of the landscaped area for road widening or other reasons.

4. JTJ, or its successor, shall maintain general liability and automobile liability insurance in amounts sufficient to protect itself against risks associated with this Agreement. JTJ and its successor shall indemnify, defend and hold harmless the Town from any and all claims arising from JTJ's performance under this Agreement.

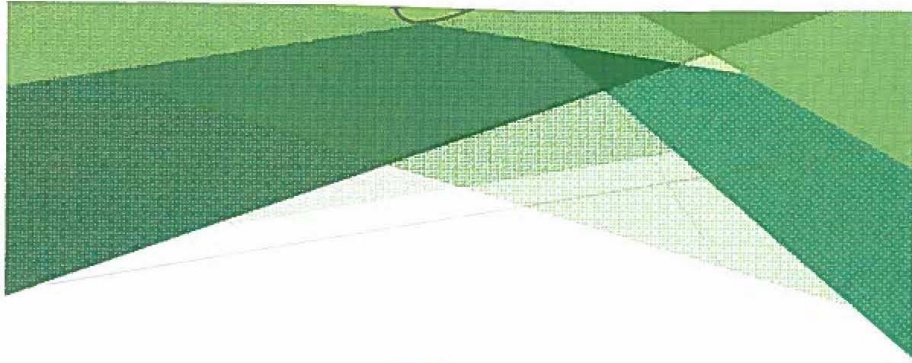
5. JTJ agrees that this Agreement shall be recorded in the York County Registry of Deeds, with reference to the deed into JTJ dated July 14, 2016 and recorded in the York County Registry of Deeds in Book 17276, Page 357.

Dated: May ____, 2017

JTJ Development, LLC

By: _____
Timothy Harrington, Manager

Exhibit B – May 11, 2017

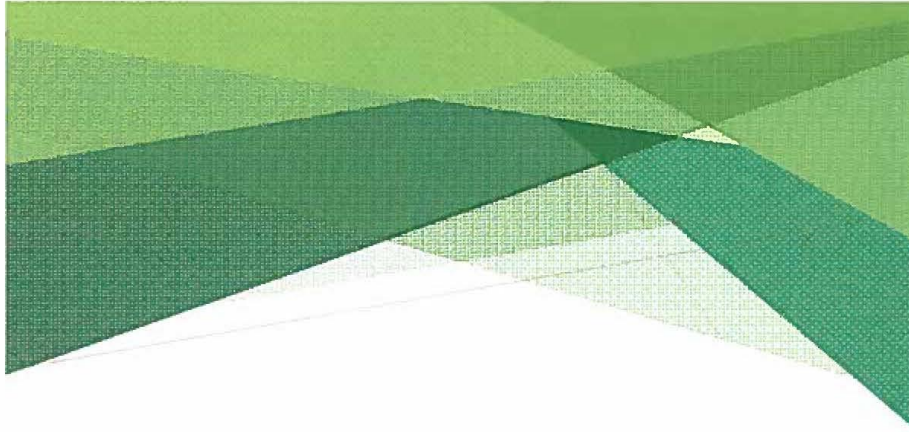


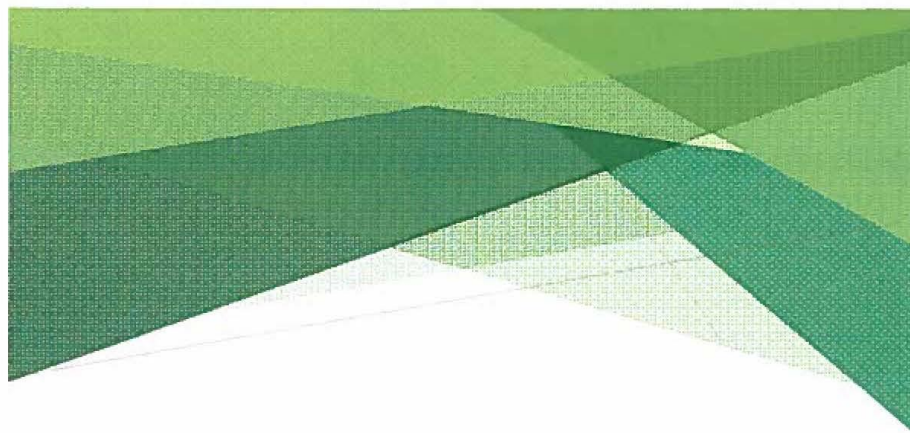
Recreational Marijuana



November 2016

- ▶ Maine legalized recreational marijuana
 - ▶ Title 7: AGRICULTURE AND ANIMALS, Part 5: PLANT INDUSTRY, Chapter 417: MARIJUANA LEGALIZATION ACT
- ▶ 29 states with medical marijuana
- ▶ 8 with full “adult use,” i.e., recreational legalization (CO, OR, WA, AK, CA, MA, NE and ME)



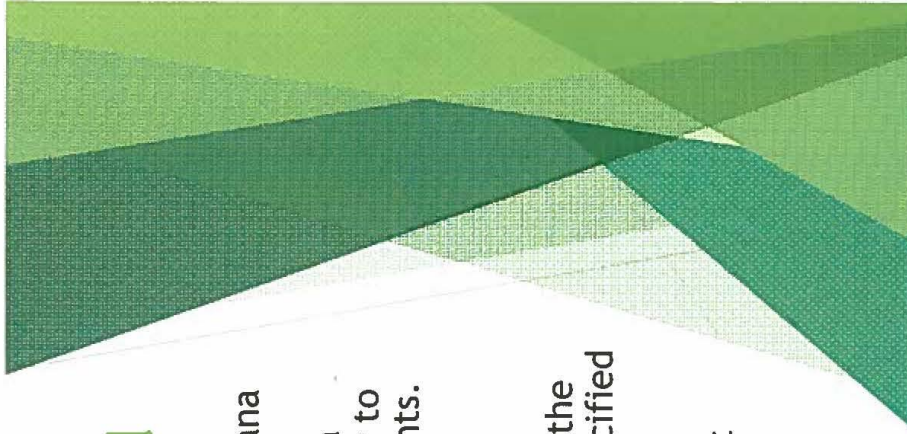


Marijuana Legalization Act

- Legalizes cultivation, production, and possession of marijuana for retail sale to individuals 21 year of age and older.
- Effective January 30, 2017: at that time, possession and use in private became legal, and growing marijuana for personal use became legal
- Legalization Act contemplates creation of state-wide, licensed commercial system of cultivation, processing and retail sale of marijuana
- This will come after issuance of state regulations and licenses (February 2018)

Marijuana Legalization Act - Local Level

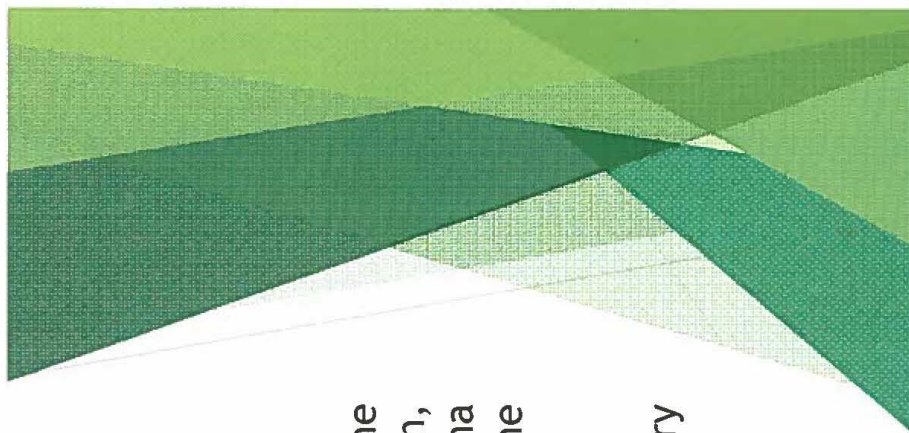
- ▶ It allows a municipality to regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and to prohibit the operation of retail marijuana establishments in the municipality. It also allows a municipality to require separate local licensing of retail marijuana establishments.
- ▶ The initiated bill allows a person to consume marijuana in a nonpublic place including a private residence. It provides that the prohibitions and limitations on smoking tobacco products in specified areas as provided by law apply to smoking marijuana and that a person who smokes marijuana in a public place other than as governed by law commits a civil violation for which a fine of not more than \$100 may be adjudged.



Who at the State level will oversee licensing?

§ 2444. State licensing authority

- ▶ For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State, the state licensing authority is the Department of Agriculture, Conservation and Forestry.
- ▶ However, Bureau of Alcoholic Beverages and Lottery Operations (BABLO) will oversee licensing

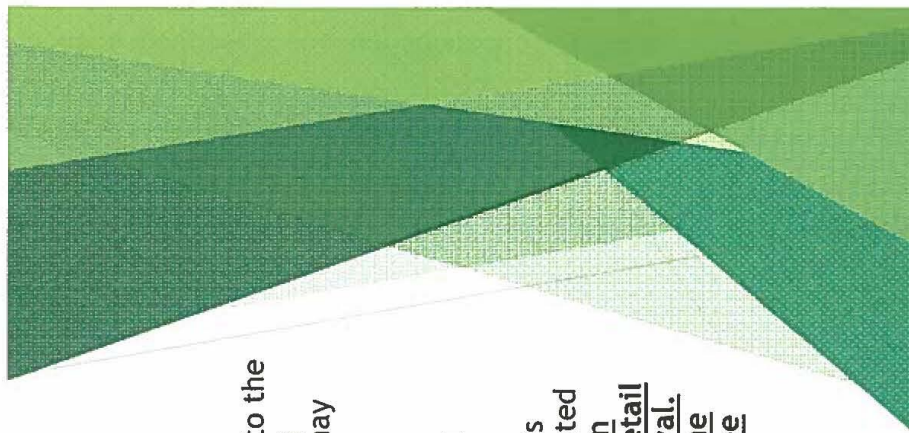


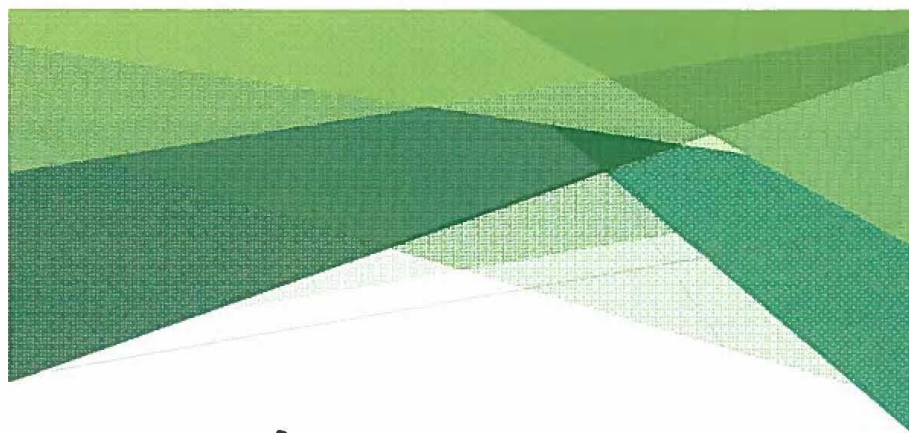
State licensing

► §2447. License application and issuance

An application for a license under the provisions of this chapter must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a license should be granted. The information must include the name and address of the applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe.

The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without state licensing authority and municipal approval. If the applicant does not receive municipal approval within one year from the date of state licensing authority approval, the license expires and may not be renewed. If an application is not approved by the municipality, the state licensing authority shall revoke the license.



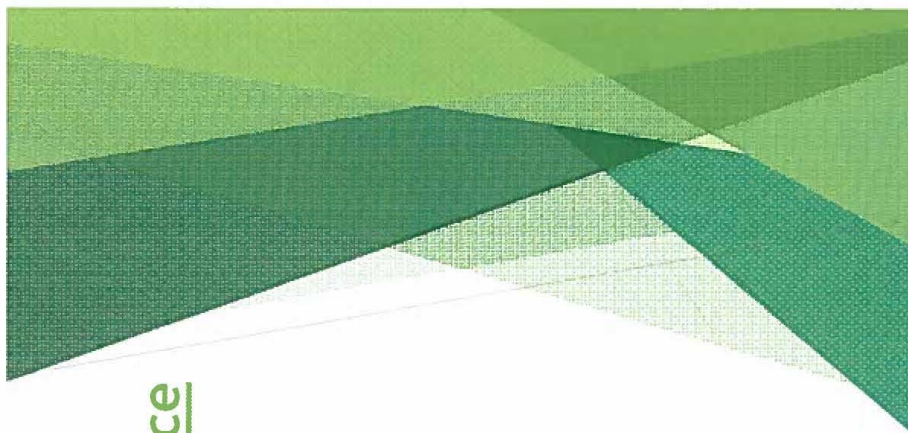


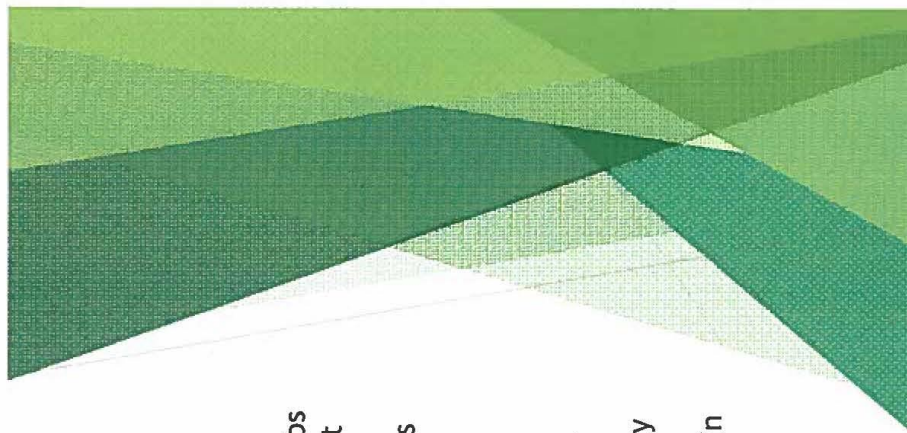
Five License Types:

- ▶ Cultivation - grow marijuana for wholesale sale of flower, two tiered system of licenses
- ▶ Manufacturing - convert cannabis flower into edible products, topicals, concentrates, etc.
- ▶ Testing - perform lab tests on cannabis flower to test for purity, potency, heavy metals, etc.
- ▶ Retail sales - sell marijuana products to the public
- ▶ Social clubs - sell marijuana and marijuana products for purposes of on-premises consumption only

§2447. State License application and issuance

- ▶ 4. Limitation on number of retail marijuana stores. The state licensing authority may not limit the total number of retail marijuana stores in this State. A municipality may regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and retail marijuana social clubs and may prohibit the operation of retail marijuana establishments and retail marijuana social clubs within its jurisdiction
- ▶ §2442. Definitions
 - ▶ 36. Retail marijuana establishment. "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.





§2449. Local licensing

- ▶ **1. Municipality may regulate retail marijuana establishments and retail marijuana social clubs.** A municipality may regulate the location and operation of retail marijuana establishments and retail marijuana social clubs pursuant to Title 30-A, chapter 187, subchapter 3. A municipality may adopt and enforce regulations for retail marijuana establishments and retail marijuana social clubs that are at least as restrictive as the provisions of this chapter and any rule adopted pursuant to this chapter. Nothing in this chapter prohibits the registered voters of a municipality from calling for a vote on any regulations adopted by a municipal legislative body.
- ▶ **2. Municipal approval required.** A retail marijuana establishment or retail marijuana social club may not operate until it is licensed by the state licensing authority pursuant to this chapter and approved by the municipality in which it is located. If an application is denied by the municipality, the licensee has 90 days to locate and obtain legal interest in another property in a municipality that approves of the retail marijuana establishment or retail marijuana social club before the license is revoked.

§2449. Local licensing Cont...

- ▶ **3. Notice and portion of fee must be given to municipality.** When the state licensing authority receives an application for original licensing, or renewal of an existing license, for any retail marijuana establishment or retail marijuana social club, the state licensing authority shall, within 7 business days, provide a copy of the application and 50% of the licensing fee to the municipality in which the establishment or club is to be located....
- ▶ **4. Municipality may impose licensing requirement.** A municipality may impose a separate local licensing requirement as a part of its restrictions on time, place, manner and the number of marijuana businesses. A municipality may decline to impose any local licensing requirements, but a municipality shall notify the state licensing authority that it either approves or denies each application forwarded to it within 14 business days.
- ▶ **5. Public hearing notice.** The following provisions govern local public hearings and notice.
 - A. If a municipality issues local licenses for a retail marijuana establishment or retail marijuana social club, a public hearing on the application may be scheduled. If the municipality schedules such a hearing, it shall post and publish public notice of the hearing not less than 10 days prior to the hearing....
 - B. If a municipality does not issue local licenses, the municipality may give public notice of the state application by posting a sign in a conspicuous place on the premises identified in the application and by publication in a newspaper of general circulation in the county in which the premises are located.

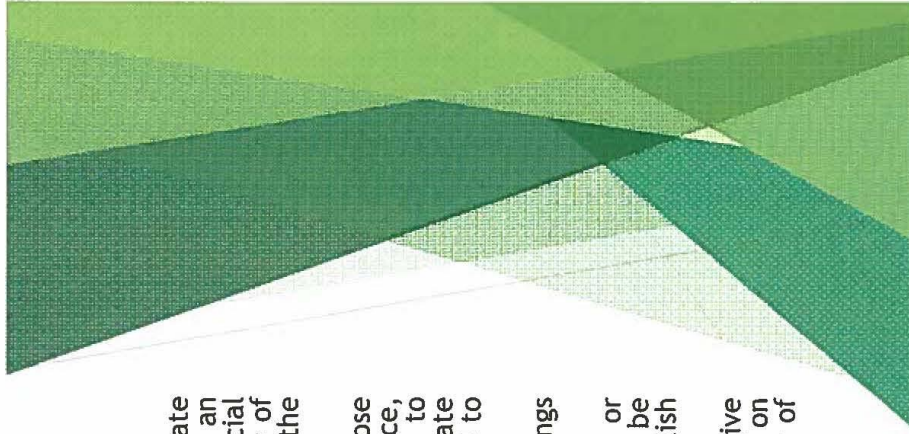


Exhibit C – May 11, 2017**CRITICAL DATES FOR TOWN MEETING
November 7, 2017**

- June 30, 2017 Paperwork of proposed ordinance changes (in underline/strike through format) due to Town Manager from Boards, Committees and Department Heads. [See Town Clerk in advance for assistance in formatting if necessary.]
- July 13, 2017 Presentation to Board of Selectmen by Boards, Committees and Department Heads of proposed ordinance changes. [Afterwards, proposals sent to appropriate Boards, Committees and Legal for review.]
- July 27, 2017 Public discussion and input at Board of Selectmen meeting.
- Aug. 10, 2017 Suggested changes by Town Attorney presented to Board of Selectmen.
- Aug. 24, 2017 Final draft presentation to the Board of Selectmen with any last minute changes made.
- Sept. 14, 2017 Last Selectman's Meeting to sign Warrant.
- Sept. 14, 2017 Selectmen set Public Hearing Date. (Perhaps for Oct. 26, 2016)
- Sept. 22, 2017 The following documents due to Town Clerk: 30-A MRSA, Sec. 2528(5) (45Days)
Warrant
Certification of Proposed Ordinance
Order to Post Copies of Ordinance
Return of Warrant
- Oct. 31, 2017 Last date to post Warrant of Town Meeting 30-A MRSA, Sec. 2523(4) (7 days)
- Oct. 31, 2017 Last day to send Notice of Town Meeting to all boxholders (*Administrative Code*)
- Nov. 07 2017 Town Meeting with polls open from 8:00 AM to 8:00 PM.

**CRITICAL DATES FOR PUBLIC HEARING
(Minimum Requirements)**

- 10 days prior to voting
(at least) Public Hearing required. (Conducted by the Selectmen with the Growth Planning Committee and the Planning Board in attendance.) 30-A MRSA
- 7 days prior to P.H. Return to Town Clerk
30-A MRSA, Sec. 2528(5)
- 7 days prior to P.H. Last day to publish notice of P.H. in newspaper
30-A MRSA, Section 4352(9)(B)