

“Amendments to Chapter 33, Planning and Development” of the Municipal Code of Ordinances of Eliot, Maine”

ELIOT CODE

PLANNING AND DEVELOPMENT

Sec. 33-190 Performance standards for Marijuana Establishments.

Notwithstanding anything to the contrary of 1 M.R.S.A. § 302 or any other law, to any application relating to the establishment or operation of a proposed Marijuana Establishment, whether or not such application had become “pending proceeding” as defined in 1 M.R.S.A. § 302 prior to the enactment of this Ordinance.

All Marijuana Establishments require site plan review and approval from the Planning Board prior to the issuance of any building permit or certificate of occupancy. The following performance standards are to be used by the Planning Board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

Reference Chapter 11-3 for definitions related to this Section.

- (a) All Marijuana Establishments shall be screened in accordance with section 33-175.
- (b) All Marijuana Establishments shall comply with the parking requirements of section 45-495(15).
- (c) Signage and advertising. All signage and advertising for any Marijuana Establishment shall comply with all applicable provisions of Chapter 45 in the Code of Ordinances. In addition, no signage or advertising shall use the word “marijuana” or “cannabis,” or any other word, phrase or symbol commonly understood to refer to marijuana. No interior signage, advertising as described above shall be visible from the exterior of the building in which the Marijuana Establishment is located. Signage containing misleading or deceptive marketing or marketing towards individuals under the age of 21 is prohibited.
- (d) Area of activities for all Marijuana Establishments; control of odors and emissions; sealed walls; disposal plan; security.
 - (1) All activities of marijuana including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana Establishments 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 Establishment and/or medical Marijuana Establishment must be clearly identified as such on the site plan application.
 - (2) Odor management. For all Marijuana Establishments odor of marijuana must not be perceptible at the exterior of the building at the premises or at any adjoining use of the property. Marijuana stores, marijuana product manufacturing facilities, and marijuana testing facilities, are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While Eliot does not mandate any particular equipment specifications with regard to filtration, all Marijuana Establishments are strongly encouraged to adopt best management practices with regard

to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

(3) Noxious gases and fumes. Marijuana product manufacturing facilities, and marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.

(4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a Marijuana Establishment must be provided at all times.

(5) All Marijuana Establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard marijuana products must have a metal cover or lid that is locked at all times. Security cameras must be installed to record activities in the area of such trash receptacles.

(6) Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following the following:

- (i) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

- (ii) door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;

- (iii) a locking safe permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;

- (iv) exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Code of Ordinances; and

- (v) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least seventy-two (72) hours. All Marijuana Establishments shall provide the Police Chief or their designee with the name and functioning telephone number of a 24-hour on-call staff person to whom Eliot may provide notice of any operating problems associated with the establishment.

(e) Separation from sensitive uses. (1) No marijuana store structure shall be sited within five hundred (500) feet of the lot lines of a public or private school, and (2) no marijuana store structure shall be sited within five hundred (500) feet of the lot lines of any public facility, places of worship, residential property, or childcare facility.

The Planning Department will not preclude a sensitive use listed in (1), (2) above from opening at a location within the applicable buffer zones.

A marijuana store may continue to operate in its present location as a pre-existing use if a sensitive use as listed in (1), (2) above later locates within the applicable buffer zone; however, the marijuana store does so at its own risk, and Town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, near a sensitive use listed in (1), (2) above.

(f) Hours of operation. Marijuana stores are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products in accordance with Chapter 6 Section 11 or as may be set forth in State statute. When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.

(g) Size limitation. The plant canopy of a marijuana cultivation facility shall not exceed their Maine State issued Tier permit.

(h) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a Marijuana Establishment except in compliance with all operating and other requirements of state, local law and regulation, and compliance with Eliot Codes and Ordinances including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

(i) Drive-through and home delivery. Marijuana Establishments are prohibited from having drive-through pick-up facilities. Marijuana stores are prohibited from providing home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.

(j) Pesticides. The only pesticides allowed to be used in Marijuana Establishments are non-synthetic substances, unless specifically listed as “prohibited” on the National List, and pesticides determined to be “minimum risk pesticides” pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time. All Marijuana Establishments shall comply with all Packaging and Labeling requirements from the State.

(k) Inspections. The Code Enforcement Officer or their designee will inspect all Marijuana Establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this Ordinance, local and state building codes and electrical codes. The Fire Chief or their designee will inspect all Marijuana Establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the requirements of all applicable State and local fire codes. The initial inspection shall occur after the establishment is ready for operation, but no marijuana, marijuana products will be permitted on the premises until the inspection is complete and a Certificate of Occupancy is issued. Nothing herein shall prevent the Fire Chief or their designee from inspecting Marijuana Establishments at random intervals, but not to exceed four times a year and without advance notice provided that the inspection is during normal business hours of the establishment.

(l) Change of use/addition of use. If any type of Marijuana Establishment to change to another type of establishment or to add another type of Marijuana Establishment to its existing operations, such change of use or additional use must be reviewed and approved by the Planning Board for compliance with this Ordinance.

(m) Other laws remain applicable. A Marijuana Establishment shall meet all operating, local and State licensing and other requirements of State and local laws and regulations. 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.

Revised: August 8th, 2019

Municipal Officers' Certification of Official Text of a Proposed Ordinance

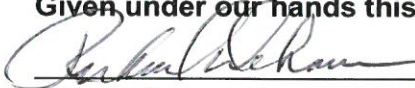
To Wendy Rawski, Town Clerk of the Town of Eliot, Maine:


We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled:

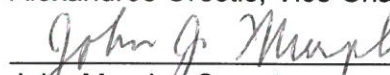
"Amendments to Chapter 33, Planning and Development" of the Municipal Code of Ordinances of Eliot, Maine", which is to be presented to the voters for their consideration on November 5, 2019.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Given under our hands this 22nd day of August, 2019.


Richard Donhauser, Chairman


Alexandros Orestis, Vice Chairman


John Murphy, Secretary


Philip Lytle, Selectman

Robert McPherson, Selectman

**Select Board
Town of Eliot, Maine**