

Town of Rome Adult-Use Recreational Marijuana Ordinance

Article I: Title

This ordinance shall be known and cited as the Town of Rome Adult-Use Marijuana Ordinance and will be referred to hereinafter as “this Ordinance”. This Ordinance limits specifically Adult-Use Marijuana establishments regarding zoning rules and regulations contained herein.

Article II: Authority

This Ordinance is adopted by the town under its home rule authority, Title 30-A M.R.S.A Section 3001 and in accordance with the provisions of Title 28-B M.R.S.A. Chapter 1.4 which authorizes municipal regulation of adult use marijuana establishments.

Article III: Definitions

The terms in this ordinance shall have the same definition as defined in Title 28-B M.R.S.A or other state regulations written and distributed by the Office of Marijuana Policy. This ordinance defines the following terms further:

1. **Indoor Cultivation Facilities:** A building or structure, used exclusively for the cultivation of Marijuana, that meets or exceeds the current Maine Uniform Building and Energy Code for air tightness, and which can only be ventilated with outside air through the use of controllable exhaust ducts, fans, or similar apparatuses. All exhausted air from these facilities shall pass through an odor mitigation device before being exhausted to the outside.
2. **Odor:** A distinctive smell, capable of stimulating the olfactory organ.
3. **Odor Mitigation Plan:** A plan detailing the various practices and apparatuses which will be used to minimize any odor emanating from a facility.
4. **Schools and Municipal Buildings:** Any building, structure, or recreational facility which is owned or operated by the Town, County, or State.
5. **Shoreland Zone:** Any area zoned as “shoreland” as depicted on the most recent Rome Shoreland Zoning Map.

Article IV: Licenses Generally

1. No marijuana establishment as defined in this ordinance shall operate within the Town of Rome unless the establishment is currently licensed by the Town in accordance with the provisions of this ordinance.
2. A license for a marijuana establishment shall be valid for one year from the date that the applicant is granted an active license from the Office of Marijuana Policy. The Town may approve licenses for less than one year to align with State/Town timeframes or as a conditional license to allow an applicant to address conditions of approval on a license.
3. **Adult-use Marijuana Licenses in the Town of Rome**
 - a. **Cultivation.** Only Indoor cultivation facilities are allowed in the Town of Rome. All outdoor cultivation operations are prohibited. Indoor facilities must follow the rules set forth in Title 28-B M.R.S. and other state regulations according to the Office of Marijuana Policy. The following tiers of cultivation licenses are allowed:

- i. **Tier 1.** A tier 1 marijuana cultivation license shall allow the license holder to cultivate up to 500 sq. ft. of marijuana plant canopy, and to sell harvested, unprocessed marijuana, marijuana plants, or seedlings at wholesale.
 - ii. **Tier 2.** A tier 2 marijuana cultivation license shall allow the license holder to cultivate up to 2,000 sq. ft. of marijuana plant canopy, and to sell harvested, unprocessed marijuana, marijuana plants, or seedlings at wholesale.
 - b. **Retail.** An adult use marijuana retail license shall allow the license holder to sell adult use marijuana in accordance with Title 28-B of the M.R.S.
 - c. **Processing.** Marijuana processing facilities are prohibited.
 - d. **Testing.** Marijuana testing facilities are prohibited.
4. Marijuana establishment licenses are not transferable; change in ownership, relocation, or expansion all require a new license in order to operate legally. Additionally, each location must be licensed separately, and the licensee must meet the requirements set forth in this ordinance.

Article V: Town Land Use Standards

1. **Shoreland Zoning Setback.** All marijuana establishments must have a 1,000 (one thousand) foot setback from the normal high-water line of any great pond as depicted on the official Rome Shoreland Zoning map.
 - a. Shoreland Zoning Setback shall be measured as the most direct, level, shortest, straight-line distance between buildings or structures of marijuana establishments to the nearest normal high-water line of a great pond.
2. **Schools and Municipal Buildings.** All marijuana establishments must have a 1,000 (one thousand) foot setback from any school or municipal buildings.
 - a. Setbacks shall be measured as the most direct, level, shortest, straight-line distance between buildings or structures of marijuana establishments to the nearest School or Municipal building.
3. **Commercial Review Ordinance.** All marijuana establishments are required to first receive permitting under the Rome Commercial Development Review Ordinance.
4. **Odor Mitigation Plan.** All marijuana establishments must provide an odor mitigation plan that demonstrates a reasonable effort to prevent odors from being detected beyond the property line. All applicants must submit an odor mitigation plan that includes:
 - a. Effective large carbon filters, activated carbon scrubbers, and/or other air filtration method that prevents the escape of odors;
 - b. A description of the odor prevention methods and practices to minimize the chance of any odor emanating beyond the property boundaries; and
 - c. A maintenance schedule and log detailing operating procedures, frequency of equipment inspection, and equipment repairs or replacements to ensure continuous odor mitigation.
5. All marijuana establishments shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products, or wastes.

Article VI: Administration and Enforcement

1. **Application.** An application for a new, renewal, or expansion marijuana establishment license shall be processed and reviewed in accordance with the following:
 - a. **Town Application Form.** An application for Recreational Marijuana Cultivation or Retail Sales shall include the following items:
 - i. A completed Recreational Marijuana Application form provided by the Town;
 - ii. A scaled 11" x 17" plot plan of the property containing the following items:
 1. Location of all existing and proposed buildings, indicating which buildings will be used for the Adult-use marijuana related activities;
 2. All property lines, roads, driveways, and waterbodies;
 3. Any municipal buildings or schools located within 1000 feet of the property.
 - iii. A copy of the Town Tax Map showing the property location;
 - iv. An Odor Mitigation Plan as described in Article 5 of this ordinance;
 - v. Proof of right, title, or interest in the property to prove sufficient standing to apply for a permit;
 - vi. A Commercial Development permit from the Planning Board
 - vii. The name, mailing address, physical address, email address, phone number, website, etc. of the marijuana establishment;
 - viii. The name, mailing address, phone number, and email of the individual owner/applicant as well as any additional partners or entities that have any type of controlling interests;
 - ix. A copy of the conditional use license and application from the Office of Marijuana Policy;
 - x. Written evidence that abutters have been notified; and
 - xi. The application fee.
 - b. **Fees.** Application fees shall be set and may be amended (after giving public notice) by the Rome Select Board. These fees shall be non-refundable and must be submitted by the applicant before review of the application can begin.
 - c. **Review.** The Rome Select Board shall begin review within 35 days of receiving a completed application. The Select Board shall complete its review within 90 days of the first meeting and shall provide the applicant with a copy of its findings.
 - d. **Renewal or Expansion.** Licensees seeking to renew or expand a marijuana establishment license must submit an application within 45 days of the expiration date of current license.
2. **Permit Expiration.** Permits shall expire one year from the date the Office of Marijuana Policy issues an Active License to the applicant, unless the expiration date is specified on the license.
3. **Public Hearings.** The Select Board shall hold a public hearing prior to making any final determinations regarding the licensing of new, renewal, or expanded Marijuana establishments.
4. **Appeals.**

- a. **Powers and Duties of the Board of Appeals:** The Board of Appeals shall have the following powers:
- i. **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Select Board in the administration of this Ordinance; and to hear and decide administrative appeals on a denovo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in their review of and action on a permit application under this Ordinance. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - ii. **Variance Appeals.** To authorize variances upon appeal, within the limitations set forth in this Ordinance. Variances may be granted only under the following conditions:
 1. Variances may be granted only from dimensional requirements including but not limited to, lot width, structural height, percent of lot coverage, and setback requirement;
 2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance;
 3. The Appeals Board shall not grant a variance unless it find that: the Proposed structure or use would meet the provisions of this ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and the strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall mean: That the land in question cannot yield a reasonable return unless a variance is granted;
 4. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 5. That the granting of a variance will not alter the essential character of the locality; and
 6. That the hardship is not the result of action take by the applicant or a prior owner.
 7. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- b. **Appeal Procedure:**
- i. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or

- the Select Board, except for enforcement-related matters. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Appeals Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- ii. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes: A concise written statement indicating what relief is requested and why the appeal or variance should be granted. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - iii. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Select Board, as appropriate, shall transmit to the Board of Appeals all the papers constituting the record of the decision appealed from.
 - iv. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
- c. **Decision by Board of Appeals.**
- i. A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.
 - ii. The person filing the appeal shall have the burden of proof.
 - iii. The Board of Appeals shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board of Appeals. Copies of written decisions of the Board of Appeals shall be given to the Select Board, Code Enforcement Officer, and the municipal officers.
- d. **Appeal to Superior Court:** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- e. **Reconsideration:** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board of Appeals members originally voting on the decision, and proper notification to the landowner, petitioner, Select Board, code enforcement officer, and other parties of

interest, including abutters, and those who testified at the original hearing(s). The Select Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

5. **Enforcement and Penalties.** The operation of any Adult-Use Marijuana facility without the required license or in violation of the requirements of this Ordinance shall be considered a violation of this Ordinance. The Rome Select Board or its designee shall enforce the provisions of this Ordinance. A violation of any provision of this ordinance shall be considered a civil violation, and a penalty in accordance section 6 below shall be assessed. Each day that a violation continues shall be treated as a separate offense. The Rome Select Board or its designee may also seek injunctive relief, where appropriate, and shall be awarded attorney fees and costs for prosecution of this section. The Rome Select Board may also revoke or suspend the permit after notice and hearing.
6. **Fines.** Whoever violates this Ordinance is subject to all of the penalties and remedies described under 30-A MRSA, Sec. 4452 and by a fine of not less than \$100 nor more than \$2,500 per offense with each day on which such violation continues. Each day in violation shall constitute a separate offense. When actions taken to enforce the Ordinance do not result in the correction or abatement of the violation or nuisance condition, the Select Board, upon notice from the Code Enforcement Officer, shall institute or cause to be instituted any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Rome. Each day that the violation continues constitutes a separate offense with maximum fines of two thousand five hundred dollars (\$2,500.00) per offense.
7. **Severability.** The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Effective Date: March 2021