

**LICENSURE OF INDIVIDUALS CULTIVATING AND STORING
MARIJUANA WITHIN THE BOUNDARIES OF THE CITY OF BARRE, VERMONT.**

WHEREAS, commencing July 1, 2018, the State of Vermont has legalized the possession, cultivation and storage of marijuana by individuals under specific circumstances and regulations; and

WHEREAS, within the Vermont Statutes, there is specific legislative intent to ensure public safety and to ensure that marijuana is not sold by individuals or that individuals do not enable the consumption of marijuana by a person under twenty-one (21) years of age; and

WHEREAS, the City of Barre, Vermont (hereinafter referred to as "City") recognizes that the irresponsible cultivation and storage of marijuana, both indoors and outdoors, could present circumstances that could present an unacceptable risk to the health, welfare and safety of the general public; and

WHEREAS, in order to ensure the safety of its citizens, the City recognizes that it has a responsibility to ensure that the cultivation and storage of marijuana complies with Vermont Statutes and in a safe and regulated environment; and

WHEREAS, the City finds that the presence of unsafe, electrified interior and / or exterior grow lights could present an unacceptable risk to the health, welfare and safety of the general public; and

WHEREAS, the City finds that the presence of an unsecured and / or non-compliant interior and / or exterior cultivation and or storage of marijuana could present an unacceptable risk to the health, safety and welfare of the general public; and

WHEREAS, absent an licensing ordinance, the City would be challenged to identify and locate individuals who are cultivating and storing marijuana in order to monitor and ensure compliance and safety; and

WHEREAS, the City has already adopted numerous public health codes to promote and enhance the health, safety and welfare of the general public; and

WHEREAS, the City desires to amend the City of Barre Codified Ordinances in order to establish a marijuana cultivation and storage registration process that will identify properties at which marijuana is cultivated and stored and identify an individual who is at least twenty one (21) years of age who is responsible for the cultivation and storage of marijuana at the licensed premises in order to ensure that marijuana cultivation is occurring in an environment and manner that is safe and compliant.

CHAPTER 24

MARIJUANA CULTIVATION AND STORAGE • REGULATION AND LICENSURE

SECTION 24-1. AUTHORITY

(a) The City Council has enacted this ordinance under the authority granted to the City in Title 24 Vermont Statutes Annotated (V.S.A.), Chapter 61, §§2291(13), (14), and (15) to compel safe and compliant cultivation and storage of marijuana.

SECTION 24-2. PURPOSE AND INTENT

It is the purpose and intent of the City to ensure the health, welfare and safety of its citizens by creating a marijuana cultivation and storage licensing procedure and system so that the cultivation and storage of marijuana at residences throughout the City can be monitored for safety and compliance with applicable Life Safety Codes and Vermont Statutes.

SECTION 24-3. DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Marijuana ó means marijuana as defined within Section 2. 18 V.S.A. § 4201.

Applicable Codes- means to include, but not be limited to, the City's Zoning Code(s), Building and Building Construction Code, Fire Protection and Prevention Code, Minimum Housing Code, Licenses Code, Plumbing Code, Trash Code, Water and Sewer Services Code, and all applicable Vermont and/or Federal Code(s).

Enforcement Officer- means any law Enforcement Officer, Building Official, Director of Planning Permitting and Inspection Services, Zoning Officer, Code Enforcement Officer, Fire Inspector or Building Inspector, or other person authorized by the City to enforce the applicable Code(s).

Inspection ó means a thorough physical inspection of the interior and exterior of all lands and buildings for purposes of detecting any breach of security, Code violations, maintenance violations or physical deficiencies.

Owner- means any person, legal entity or other party having any ownership interest whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

Grow Light - an artificial light source, generally an electric light, designed to stimulate plant growth by emitting a light appropriate for photosynthesis. Any light used to facilitate growing and photosynthesis.

SECTION 24-4. APPLICABILITY.

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the City above and beyond any other state, county or local provisions for same.

SECTION 24-5. ESTABLISHMENT OF A LICENSING REGISTRY.

The City or designee may establish a registry cataloging each location where marijuana is cultivated and stored and naming the responsible party who is responsible for the safe and compliant cultivation and storage of marijuana. At the City's sole discretion and in the interest of public safety, said registry may not be available to the general public, unless otherwise directed by a Court having jurisdiction.

SECTION 24-6. LICENSING OF MARIJUANA CULTIVATION AND STORAGE AREAS.

Any individual residing within the city and desiring to cultivate and / or store marijuana shall obtain a license to cultivate and / or store marijuana before cultivating and / or storing marijuana within the city limits.

In order to be considered for Licensure, all Licensees must complete the licensing form as prescribed and approved by the City Council accurately, truthfully and without material misrepresentation or omission. All Licensees shall appear before the city council or their designee(s) for approval.

Licenses may be approved, rejected, suspended or revoked by the City Council or their designee(s) at the sole discretion of the City Council or their designee(s). In the case of rejected, suspended or revoked licenses, the Applicant or Licensee shall be granted the opportunity to appeal the rejection, suspension or revocation.

Neither a person, nor a Licensee shall consume marijuana in a public place. "Public Place" shall mean any street, alley, park, sidewalk, public building other than individual dwellings, an place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use and / or possession of a lighted tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.

The Licensee shall be solely responsible for their education and knowledge of Vermont Statutes as they related to cultivation and storage of marijuana. Failure to adhere to Vermont Statues in all respects shall be grounds for immediate revocation or suspension of a Marijuana Cultivation and Storage License.

The Licensee shall be solely responsible for their education and knowledge of Barre City Ordinances as they related to cultivation and storage of marijuana. Failure to adhere to Barre City Ordinances in all respects shall be grounds for immediate revocation or suspension of a Marijuana Cultivation and Storage License.

The Licensee shall be solely responsible for the safe and secure cultivation and storage of marijuana, as well as the safe, secure and responsible disposition of any unwanted marijuana product or by-products. Any unwanted marijuana products or by-products may not be disposed of in garbage containers that are left unattended or in a manner that would allow said unwanted products or by-products to be accessed by a third party.

If the Licensee has been granted permission to cultivate and store marijuana at a residence or facility that is not owned by the Licensee, that permission may be revoked by the property owner at any time. If permission of the property owner is revoked, the Licensee must cease all cultivation and storage of marijuana on the premises immediately and arrange for the safe and responsible disposal of all marijuana and marijuana plants in a manner that will ensure that they are not accessed or possessed by any third party.

SECTION 24-7. MAINTENANCE REQUIREMENTS.

Licensed Properties are is required to be maintained in accordance with all applicable code(s) of the City, Vermont and federal governments.

SECTION 24-8. SECURITY REQUIREMENTS.

a) The marijuana cultivation and storage areas subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons and / or persons under twenty-one years of age.

b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors and gates. .

c) Failure of the licensee or owner to properly secure the marijuana cultivation and / or storage areas shall result in a violation of the applicable code(s) and issuance of a citation or Notice of Violation in accordance with the applicable code of the City. Pursuant to a finding and determination by the City or a court of competent jurisdiction, the City may suspend or revoke the License.

d) In addition to the above, the property is required to be secured in accordance with all applicable code(s) of the City, Vermont and federal governments.

SECTION 24-9. INSPECTION REQUIREMENTS.

a) Properties subject to these Sections shall be inspected at least weekly by the Licensee for compliance and safety.

b) In the event the city becomes aware that inspections are not occurring as required under this Section, the city may conduct its own inspections and invoice the Licensee for said inspection. The fees for the inspections shall be designated by the city council and upon adoption of the rates the council shall publish in the local newspaper the rate changes thirty (30) days prior to the effective date of the rate changes.

e) Failure of the Licensee to properly inspect a Licensed property as required by this article is a violation of the article and shall be subject to enforcement.

All holders of a Marijuana Cultivation and Storage License are subject to reasonable compliance inspections by agents or designees of the City (including law enforcement). The refusal of an inspection shall be grounds for immediate revocation or suspension of a Marijuana Cultivation and Storage License.

SECTION 24-10 . PUBLIC NUISANCE.

All non-compliant marijuana cultivation and / or storage activity is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the City.

SECTION 24-11. ADDITIONAL AUTHORITY.

a) If the enforcement officer has reason to believe that a property subject to the provisions of this article is posing a serious and immediate threat to the public health, safety and welfare, the City Council or their designee may immediately revoke a License.

b) If there is a finding that the condition of the property is posing a serious and immediate threat to the public health, safety and welfare, then the City may report the violations to the Mortgagee and Insurer of the property.

Marijuana cultivated by an unauthorized or unlicensed individual is subject to seizure by the City of Barre, Vermont or their designees (including law enforcement).

SECTION 24-12. OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY.

Whoever opposes, obstructs or resists any designated enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

SECTION 24-13 . IMMUNITY OF ENFORCEMENT OFFICER.

Any enforcement officer or any person authorized by the City to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article.

SECTION 24-14. PENALTIES .

A violation of this ordinance shall be a civil matter and subject to penalties in accordance with State Statute.

A first offense of any provision of this ordinance by a person during any twelve month period shall be deemed a civil violation and shall be punishable by a fine of five hundred dollars (\$500.00). There is no waiver for the fine.

Each day's failure to comply with a notice of violation issued by the enforcement officer shall constitute a separate offense.

Second and subsequent offences. A second offense during any twelve-month period shall be punishable by a fine of one thousand dollars (\$1,000.00). There is no waiver for the fine.

After the Licensee is given notice of the amount of the License Fee due, and Licensee fails to pay the amount due, said amount shall constitute a debt due and owing to the City, and shall constitute a lien on the Property if the Licensee is the owner.

SECTION 24-15 . SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 24-16. All Ordinances or parts of ordinances inconsistent herewith be, and the same are hereby repealed.

SECTION 24-17. This ordinance shall take effect 20 days after publication following Council approval, as provided in City Charter.