

Performance Standards and Local Licensing Requirements
Medical Marijuana Registered Caregiver
Rev October 24, 2021, Rev August 26, 2022, Rev September 13, 2022, Rev November 2, 2022, REV
March 6, 2023

§ 140-67.3 Performance Standards and Local Licensing Requirements for Medical Cannabis Registered Caregiver.

Purpose and Authority:

Maine municipalities are authorized to regulate registered caregivers under 22MRS §2429-D. *Local Regulation.*

Registered caregivers as defined under prevailing laws and rules:

State of Maine Title 22: HEALTH AND WELFARE, Subtitle 22: HEALTH, Part 5 FOOD AND DRUGS, Chapter 558-C: MAINE MEDICAL USE OF CANNABIS ACT §2422. Definitions 11. Registered Caregiver pursuant to §2425-A,

MAINE MEDICAL USE OF MARIJUANA PROGRAM RULE 18-691, CODE OF MAINE RULES 18 Department of Administrative and Financial Services, 691 Office of Marijuana Policy Chapter 2: Maine Medical Use of Cannabis Program Rule, Chapter 2 (formerly 10-144 Ch. 122)

Registered caregivers shall apply and operate under local license and performance standards listed in this chapter.

Purpose and Authority: This ordinance is enacted pursuant to authority granted 30-A M.S.A. § 3001, 22 M.R.S. § 2423-A (14) and 28-B M.R.S. § 402. The purpose of this ordinance is to set forth *procedures* and standards for the issuance of local licenses for Medical Marijuana Registered Caregivers in-order to protect public health, safety, and welfare.

Registered Caregiver: See definitions section §140-9

Disqualifying drug offense: See definitions section §140-9

Registered Caregiver: "Registered Caregiver" means a caregiver who is registered by the State of Maine Department of Administrative and Financial Services, Office of Cannabis Policy pursuant to 22 M.R.S. §2425-A.

Disqualifying drug offense: "Disqualifying drug offense" means conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, but does not include (1) An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or (2) An offense that consisted of conduct that would have been permitted under the Maine Medical Use of Marijuana Act.

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Administration: License Requirement: Effective 30-days following enactment of the Ordinance (“the effective date”, a Medical Cannabis Registered Caregiver (“MCRC”) shall not begin or continue operations unless it has received and is in possession of a license pursuant to this Ordinance. MCRC that holds an approved special use permit and/or are operating as of the effective date shall submit a completed application within 30 days of the effective date but shall have a grace period of 60 days after the effective date to receive a license, which may be extended by order of the Council if justified due to the anticipated timeline of the review process.

Licensing Authority: All MCRC license applications, whether new or a renewal, shall be reviewed by the Town Planner and shall be approved by the Town Council after public hearing. Application shall be made in writing to the Town Planner using a form prepared by the Town for the purpose and must include all information required by this Ordinance and by the form. The Town Clerk shall give notice of any public hearing held by the Town Council by publication in a newspaper of general circulation in the Town of South Berwick at least seven (7) days prior to action.

Review Procedures: The review procedures described below shall be the same for initial license applications as well as renewals, unless otherwise indicated. In reviewing these license applications, the Licensing Authority, and any consulting Town officials, may consider the approval standards under this Ordinance as well as any additional applicable local, State or federal laws and, for license renewals, the Licensee’s record of compliance with the same.

- A. The Town Planner shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance and to obtain recommendations from other Town officials as required.
- B. The Town Council shall have the authority to impose any conditions on a license that may be reasonably necessary to ensure compliance with the requirements of this Ordinance or to address concerns about operations. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.
- C. No license shall be granted by the Licensing Authority until the Police Chief, Fire Chief, and Code Enforcement Officer all made positive recommendations regarding the Applicant’s ability to comply with this Ordinance or any other applicable Town ordinance or state or federal law enforced by such local officials. The Town Planner is responsible for ensuring the submission of documentation from the Code Enforcement Officer, Fire Chief, Police Chief.
- D. For renewal licenses, the application, review process and reviewing authority shall be the same as for initial licenses. All renewal applications for Medical Cannabis Registered Caregivers shall be reviewed by the Town Council, which shall issue a renewal license only upon a finding that the MCRC has in the past license term been operating in

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accordance with this Ordinance as well as the MCRC previously submitted Operations Plan.

- E. Licenses shall be approved only for the type of MCRC identified in the application. A Licensee who intends to expand or convert Licensed Premises to a type of cannabis business this is not specifically approved in a license must obtain a new license for that use.
- F. Any Licensee that is required to obtain approval from the State of Maine shall provide the Code Enforcement Officer and Town Planner copies of all necessary approvals prior to operating the licensed business.
- G. Authorized municipal official with authority to make recommendations, grant licenses or enforce this or other municipal ordinances regarding MCRC operations shall have the authority to enter the Licensee's or Applicant's premises without notice to make any inspection reasonably necessary to ensure compliance.

Application Requirements: Each applicant for MCRC license shall complete and file an application form provided by the Town Planner, together with applicable license fee. The Application fee is non-refundable. Two paper copies and one electronic copy of the application and supporting materials shall be provided.

- A. A copy of the Applicant's State License application and supporting documentation.
- B. Evidence of all State approvals or conditional approvals required to operate as a M-CRC including, as applicable, State caregiver registration, Food and Fuel License application and certificate.
- C. If not a proprietor business, include any articles of incorporation, by-laws, partnership agreement or articles of association governing the entity that will own and/or operate the MCRC business.
- D. A release for each Applicant and for each officer, owner, member, manager, or partner of the MCRC applicant seeking a license allowing Town of South Berwick officials to obtain criminal records and other background information related to the individual(s).
- E. Evidence of all land use approvals required to operate as MCRC, including, but not limited to, building permit(s), site plan review approval and change of use permit.
- F. Evidence of all other local approvals required to operate as MCRC, including any applicable food or victualer's license.
- G. A description of the premises for which the license is sought, including a plan of the premises.

If the Town Planner determines the submitted application is incomplete, they shall notify the applicant of additional information required. Supplemental requested information must be submitted within thirty (30) days of the Planner's request or the application shall be denied.

License Issuance and Renewal:

- A. Each license issued under this Ordinance shall be valid for term of the license granted by the State License Authority (“the license year”) or otherwise for one (1) year from the date of issuance. Applications for renewal licenses shall be submitted 90 days prior to the expiration of the existing term to allow for timely processing. Any MCRC which fails to obtain a renewal license prior to expiration of the existing term shall not have the authority to operate until the license is granted.
- B. Applications for Medical Cannabis Registered Caregiver will be processed as received and, forwarded to the Council for action. If additional documents or information is needed, the Town Planner will contact the applicant to inform them of the deficiency.

Denial, Suspension or Revocation of a License: A license application for MCRC shall be denied by the Town and an existing license may be suspended or revoked by the Town Council after notice and hearing, if the Applicant, or any owner of the property or Licensee:

- A. Fails to meet the requirements of this Ordinance.
- B. Is not 21 years of age.
- C. Has a license required for MCRC suspended or revoked by the Town, by a municipality in the State of Maine, or by the State.
- D. Is in violation of this or any other Ordinance or has unpaid penalties assessed by a court related to cannabis_business.
- E. Has not acquired all necessary state and local approvals prior to issuance of the license.
- F. Fails to meet zoning or other land use, shoreland, resource protection ordinances.
- G. Has been convicted of a criminal violation arising out of operation of a cannabis business.
- H. Has provided false or misleading information in connection with the license application.
- I. Odor must be mitigated in the allotted 5 days after being notified by the Code Enforcement Officer.

Approval and Operating Requirements:

To obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Town Council or its designee the following requirements shall be met. A license holder shall comply with all these requirements during the term of the license.

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- A. Fixed Location: All licensed premises shall be fixed, permanent locations. License holders shall not be permitted to operate other marijuana operations or establishments in other than the licensed premises, excluding for example, farmer's markets, farm stands or kiosks.
- B. Security: The licensed premises shall have lockable doors and windows and shall be served by a security system.
- C. Ventilation: The licensed premises shall comply with all odor and air pollution standards established by statute or ordinance, or as a condition of approval by the Planning Board.
- D. Waste Disposal: the licensed premises shall not dispose of waste and/or residue from the growth, cultivation, processing of medical marijuana in an unsecured waste receptacle not in its possession or control. All waste receptacles on site must have a metal cover and be always locked with proper security.
- E. No nuisance such as offensive noise, vibration, smoke, dust odors, heat or radiation shall be generated. (*§140-43*)
- F. Lighting: (Must Comply with *§140-27*)
- G. Parking: (Must Comply with *§140-24*)
- H. Signage: Major home occupations shall not have any business-related signage visible from the exterior of the property.
- I. External Facing Window Displays, Lighting or Lit or Unlit Wall Signage Prohibited.
- J. Hours of operation: Client product pick-up times shall be limited to the following: 8:00am to 8:00pm.
- K. MCRC shall meet all operating and other requirements of prevailing State and Local law.
- L. Notification of changes in business operations.

Transfer of Ownership of Change of Location: Licenses issued under this Ordinance are not transferable to a new owner. Licenses are limited to the premises for which they are issued and shall not be transferable to a different location. A licensee who seeks to operate in a new location shall acquire a new license for that location.

Appeals:

Any party may take an appeal, within 45 days after the decision is rendered by the Town Council to Superior Court from any order, relief, or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B.

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Enforcement and Penalties: For Operations of MCRC business without the required license of this Ordinance shall be a violation of this Ordinance. The Town of South Berwick or its designee shall enforce the provisions of this subsection.

Severability: The provisions of the 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.

Other Laws: In the event of a conflict between the provisions of this Ordinance and the provisions of other law or ordinance the more restrictive shall apply.

Move to Fee Schedule: Appendix A

Medical Cannabis Registered Caregiver Licensing Ordinance Schedule of Fees

Medical Cannabis Registered Caregiver License- No Cultivation on-site	\$1,500
Medical Cannabis Registered Caregiver License- Cultivation conducted on-site	\$3,000
Medical Cannabis Registered Caregiver License Exchange / Conversion Application	\$750

Move to §140-9 Definitions

Cannabis: Cannabis means the leaves, stems, flowers, and seeds of all species / derivatives (including hemp) of plant genus cannabis, whether growing or not. It does not include mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

Cannabis Cooperative: Two or more Medical Cannabis or Adult Use Cultivators claiming a location as a primary residence in order to conduct cannabis home production. Cannabis cooperatives are considered Adult Use Cannabis Production Facilities if cannabis is grown by an Adult Use Caregiver and considered a Medical Cannabis Production Facility if grown by a Medical Cannabis caregiver.

Cannabis Caregiver Home Production: Cultivation, Delivery, Selling and/or storing of Medical Cannabis at a person's primary year-round residence. This use shall meet the Home Occupation requirements (**insert Section when identified**)

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Cannabis, Adult Use: Cannabis that is cultivated, manufactured, distributed, or sold by a Cannabis establishment for adults 21+ as defined by Maine Title 28-B.

Cannabis Caregiver Retail Store: A store, in compliance with Zoning §140-67.1, that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer cannabis plants or harvested cannabis for sale to qualifying patients.

Cannabis Cultivation Facility, Adult Use: A facility licensed under this chapter to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use cannabis; to sell adult use cannabis to product manufacturing facilities, to cannabis stores and to other cultivation facilities; and to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores.

Cannabis Dispensary, Medical: An entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Cannabis Establishment: A cultivation facility, a products manufacturing facility, a testing facility or a cannabis store licensed by the State of Maine.

Cannabis Manufacturing, Adult Use: The production, blending, infusing, compounding or other preparation of cannabis and cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

Cannabis Store, Adult Use: A facility licensed under Maine Title 28-B to purchase adult use cannabis, immature cannabis plants and seedlings from a cultivation facility, to purchase adult use cannabis and adult use cannabis products from a products manufacturing facility and to sell adult use cannabis, adult use cannabis products, immature cannabis plants and seedlings to consumers.

Cannabis Testing Facility: A facility licensed by the State of Maine to research and test cannabis, cannabis products and other substances.

Medical Cannabis Registered Caregiver/s: Registered Medical Cannabis Caregiver means a home-based facility used by a maximum of two (2) registered caregivers for cultivating, processing, and/or storing of medical marijuana at a registered caregiver's primary year-round residence. This definition also includes cultivating marijuana, harvesting marijuana, drying marijuana, and the packaging and transportation of the product from the premises or for limited client pick-up. The use is to be for growing medical marijuana for personal use and for medical cardholding patients / clients. The use is subject to Town licensing requirements and all other activities authorized by State Law. Only marijuana grown on the premises shall be allowed on the property at any time with the exception of the Caregiver's personal use. No cannabis grown or produced products manufactured off the premises shall be transported to, stored at, sold, packaged, or processed at the property. The property may not be utilized for commercial resale. No more than 700 designated square feet per licensed caregiver or, where two (2) registered caregivers are growing on / within the same property, a maximum of \$1,200 designated square feet of cumulative square feet are permitted for the entire home occupation operation.

Medical Cannabis: Cannabis that is acquired, possessed, cultivated, manufactured, used, delivered, transferred, or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical Cannabis Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of cannabis in accordance with Maine State Law. A person who is a medical cannabis caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Cannabis Production Facility: A facility used for cultivating, ethanol extraction, and/or storing medical cannabis by a medical cannabis caregiver at a location which is not the medical cannabis caregiver's primary year-round residence or their patient's primary year-round residence. Butane extraction is considered an Industrial Use. The maximum size of a medical cannabis production facility is 2,500 square feet of cultivation area. The industrial use zones are I1 and I2 for the industrial facilities zoning. **(Inserted Industrial Use Section, as necessary)**

Medical Cannabis Caregiver Home Occupation

The below uses constitute a Major Home Occupation which must conform to the following

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1. Medical Cannabis Registered Caregiver Home Occupation:

a) Medical Cannabis Registered Caregivers as a home occupation shall not include the employment of any persons not residing on the premises in the performance of the occupation. SEE DEFINITION "Cannabis Cooperative".

b) There shall be no outdoor storage of materials or products on the premises, associated with the business, on the premises. All outdoor waste disposal receptacles must have a metal cover and be always locked.

c) Municipal Approval Required: Major Home Occupations shall be reviewed and, if all applicable standards are met, approved by the Town's Code Enforcement Officer (CEO). If the CEO determines that the application does not meet the adopted standards the CEO may work with the Applicant towards bringing the application / proposal into full compliance with the standards (curtailing the operations etc.) or the Applicant may bring the matter to the Zoning Board of Appeals to challenge the CEO's determination.

d) Square Footage Limitations: A cannabis caregiver home occupation shall be carried on wholly within the principal building or within a building or other structure accessory to it and shall utilize, at a maximum, no more than 700 designated square feet per licensed caregiver or, where two (2) registered caregivers are growing on / within the same property, a maximum of 1,200.

e) Odor Control / Mitigation:

1) No use shall emit product odor across the lot lines in such quantity as to be readily detectable at any point along the lot lines.

2) Odor Control Plan: An Odor Control Plan shall be submitted to the Town's Code Office specifying the engineering and administrative controls the Caregiver will use to prevent odors from being detected offsite. The plan shall provide a list of all odor control measures, equipment and cleaning / maintenance for all existing and new odor control equipment; and must include carbon filtration and a negative pressure environment or sealed rooms. This Maintenance Log shall be shown to the Town's Building and Fire inspectors upon request. Any noted deficiencies shall be corrected within the timeline provided by the enforcement authority.

3) After the Fact Mitigation: If responding to odor complaints emitting from a caregiver's property, with or without, an approved odor control plan which is insufficient, as determined by the Town's Code Enforcement Officer (CEO), the CEO may work with the operator to bring the property into full compliance. Any noted deficiencies shall be corrected within the timeline provided by the enforcement authority. Should the odor issues be unable to be resolved, to the Town's satisfaction, the CEO may begin an enforcement action and / or seek Town Council revocation of required licensing.

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f) Major home occupations shall not have any business-related signage visible from the exterior of the property.

1) No goods may be sold from the property which were not produced on-site. Items such as soil, fertilizers, etc., utilized by the caregiver for the operation of their home occupation or normal household products, utilized on site are not included in this prohibit.

2) Client visits / product sales from the property shall be comply to with the following:

a. All sales shall be transacted within the interior of the premises.

b. Client visits shall be appropriately scheduled to prevent/minimize client overlap. Client visits by appointment only.

c. No traffic shall be generated in greater volumes than would normally be expected by a residential use.

g) Hours of operation: Client product pick-up times shall be limited to the following: 8:00am-8:00pm.

h) Sufficient off-street parking shall be provided for one (1) client parking space. If existing parking is sufficient, as determined by the CEO, no additional parking is required. In all cases parking shall resemble parking at a typical residential home.

i) Pick-up windows and/or drive-through service are strictly prohibited.

j) Exterior Lighting: All exterior lighting shall be residential in nature installed to reduce light spillage into surrounding properties. This condition does not prohibit, time limited, motion activated security lighting.

k) No nuisance such as waste discharge, offensive noise, vibration, smoke, dust, heat, or radiation shall be generated.

l) A copy of the building layout must be provided to the Chief of Police and the Chief of Fire to ensure the safety of first responders.