

Should the Town of Waterboro, Maine allow Medical Marijuana Retail Business to operate under Maine Medical Use of Marijuana Act, 22 MRSA Chapter 558-C?

Petition to Allow Medical Marijuana retail stores in Waterboro per Ordinance see attached (pages 1-8).

MEDICAL CANNABIS RETAIL STORE ORDINANCE

Section 1. Purpose.

The purpose of this Medical Cannabis Retail Store Ordinance (*hereinafter*, the “Ordinance”) is to regulate and license Medical Cannabis Retail Stores as defined in this Ordinance and by the State of Maine under the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended, in order to promote the health, safety, and general welfare of the residents of Waterboro. Persons or legal entities wishing to establish a Medical Cannabis Retail Store within the Town of Waterboro shall first obtain a license from the Waterboro Board of Selectmen (*hereinafter*, the “Selectmen”) and shall be subject to the provisions of this Ordinance.

Section 2. Authority.

This Ordinance is adopted pursuant to the authority granted by 22 M.R.S.A. §2421 et seq., as may be amended.

Section 3. Definitions.

- A. *Applicant* shall mean a person that has submitted an application for licensure as a Medical Cannabis Retail Store pursuant to this Ordinance.
- B. *Cannabis* shall mean “Harvested Marijuana” as that term is defined in 22 M.R.S.A. §2422 (3-C) as may be amended.
- C. *Cannabis Establishment* shall mean Adult Use Marijuana Establishment as defined in 28-B 22 M.R.S.A. §102 (29) as may be amended, a Registered Dispensary, Caregiver Retail Store, a Medical Cannabis Testing Facility as defined in 22 M.R.S.A. §2422 (5-C), as may be amended, a Medical Cannabis Manufacturing Facility as defined in 22 M.R.S.A. §2422 (4-R), as may be amended, and a Registered Caregiver as defined in 22 M.R.S.A. §2422 (11), as may be amended.
- D. *De Minimus Changes* shall mean minor changes to a submitted floor plan of less than 50%, or changes to ownership interest of not greater than 50%.
- E. *Licensed Premises* shall mean the premises specified in an application for a State or Local License pursuant to this Ordinance that are owned or in possession of the Licensee and within which the Licensee is authorized to sell Cannabis in accordance with the provisions of this Ordinance and the requirements of State law and regulations.
- F. *Licensee* shall mean a person licensed pursuant to this Ordinance.
- G. *Local License* shall mean any license required by and issued under the provisions of this Ordinance.
- H. *Medical Cannabis Retail Store* shall mean “Caregiver Retail Store” as that term is defined in 22 M.R.S.A. §2422(1-F) as may be amended or a store connected to a “Registered Dispensary” as that term is defined in 22 M.R.S.A. §2422(6), as may be amended. This definition does not include any cannabis cultivation facilities or manufacturing facilities in connection with a Registered Dispensary.
- I. *Owner* shall mean any Person that owns an interest in whole or in part, in the legal entity.

- J. *Person* shall mean a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not include any governmental organization.
- K. *State License* shall mean any license, registration or certification issued by the State Licensing Authority.
- L. *State Licensing Authority* shall mean the authority (or authorities) created by the State for the purpose of regulating and controlling the licensing of Medical Cannabis Retail Store in this State.
- M. *Town* shall mean the Town of Waterboro.

Section 4. License Required.

No Person may establish, operate or maintain a Medical Cannabis Retail Store without first obtaining a license from the Selectmen.

Section 5. License Application.

An application for a Local License must be made on a form provided by the Town. All applicants must be qualified according to the provisions of this Ordinance. Applicants shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this Ordinance. The application for a Medical Cannabis Retail Store license shall contain the following information:

- A. Name of Applicant.
 - 1. If the Applicant is an individual, please provide the legal name and any aliases.
 - 2. If the Applicant is a legal entity, provide the date the legal entity was formed, the state the legal entity was formed, evidence the legal entity is in good standing and the legal names of all Owners of the legal entity.
- B. The location of the proposed Medical Cannabis Retail Store, including a legal description of the property, street address, and telephone number. The Applicant must also demonstrate that the property meets the zoning requirements for the proposed use.
- C. Provide a diagram of the layout of the Medical Cannabis Retail Store, location of displays, indicating how customer access to cannabis and cannabis products is controlled and where signage is placed.
- D. If the Applicant has had a previous license under this Ordinance or other similar Cannabis Establishment license applications in another town in Maine, in the Town, or in another state denied, suspended or revoked, they must list the name and location of the Cannabis Establishment for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the Applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose license has previously been denied, suspended or revoked, listing the name and location of the Cannabis Establishment for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.

- E. If the applicant holds any other permits/licenses under this Ordinance or other similar Cannabis Establishment license from another town, the Town, or state the applicant shall provide the names and locations of such other permitted/licensed businesses, including the current status of the license or permit and whether the license or permit has been revoked.
- F. Sufficient documentation demonstrating possession or entitlement to possession of the proposed Licensed Premises of the Medical Cannabis Retail Store pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.
- G. A copy of a Town Tax Map depicting the property lines of any public or preexisting private school within one thousand (1000) feet of the subject property. For the purposes of this Ordinance, "school" includes a public school, private school, or public preschool program all as defined in 20-A M.R.S.A. §1, or any other educational facility that serves children from prekindergarten to grade 12, as well as any preschool or daycare facility licensed by the Maine Department of Health and Human Services.
- H. Evidence of all required state authorizations, including evidence of a caregiver registration in good standing, food license, tobacco retail license and any other required state authorizations.
- I. Completed security plan made on a form provided by the Town pursuant to Section 10 (G) of this Ordinance.
- J. If Applicant is required to file for a change of use or site plan approval, Applicant must provide a copy of the change of use approval or site plan approval by the Town.

Section 6. Licensing Fee.

Each Applicant must pay non-refundable \$1,000 licensing fee upon submission of the application.

Section 7. Licensing Authority and Procedure.

- A. Confidentiality. Medical Cannabis Retail Store submitting applications and supporting information that is confidential under 22 M.R.S.A. § 2425-A (12), as may be amended or recodified, and the Maine Freedom of Access Act, 1 M.R.S.A. § 403(3)(F), shall mark such information as confidential. An individual who possesses a valid Maine caregiver identification card need not identify themselves in an application for a license for a Medical Cannabis Retail Store. The cardholder must, however, identify themselves and provide the relevant cards to the Town Clerk for examination, but the identity of the cardholder shall not be a public record and the Town shall not share the identity of the cardholder, except as necessary by law in the performance of the Town's official functions. At the time of the application, the cardholder may appoint a representative to appear before the Selectmen on their behalf. Advertisements for the requisite public hearing shall contain the location of the proposed Medical Cannabis Retail Store and the identity of the owner of the real estate and the identity of the designated representative.
- B. Initial Application. The initial application for a license shall be processed by the Town Clerk and reviewed and approved by the Selectmen. In the event that the Town Clerk determines that a submitted application is not complete, the Town Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

C. Public hearing.

1. A public hearing by the Selectmen on an application for a license shall be scheduled after receipt of a completed application. The Town Clerk shall publish public notice of the hearing not less than ten (10) days prior to the hearing in a newspaper of general circulation in York County. A public hearing shall be scheduled within thirty (30) days of the application being deemed complete by the Town Clerk.
2. When an application is determined to be complete, the Town Clerk shall, at the applicant's expense, give written notification to all abutting property owners within five hundred (500) feet of the parcel on which the proposed license is sought of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least ten (10) days prior to the first meeting at which the complete application is to be reviewed. Failure of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Selectmen. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town.

D. Renewal Application. A renewal application shall be subject to the same application and review standards as applied to the initial issuance of the license. Renewal applications from applicants in good standing, with no change, or De Minimis, to the original application, may be approved by the Town Clerk or their designee, so long as all other criteria and requirements as outlined in this Section and Section 10, have been met. The Town as part of the renewal process, shall consider compliance from prior years, and based upon that review, may recommend conditions to any future license to correct, abate, or limit past problems to forward to the Selectmen for action.

E. Responsibilities and Review Authority.

1. The Town Clerk or a designee of the Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance. The Town Clerk shall consult with other Town Departments and any appropriate State Licensing Authority as part of this investigation.
2. No Local License shall be granted by the Selectmen until the Fire Chief, and the Code Enforcement Officer have all made the determination that the Applicant complies with this and all other local ordinance and state laws and provides a written recommendation to the Town Clerk. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or Licensee, or the person in charge of the Licensed Premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection at any reasonable time that admission is requested.
3. The Selectmen shall have the authority to approve license and renewal applications, subject to the exception outlined in Section 7 (D) above and impose any conditions on a license that may be necessary to ensure compliance with the requirements of this Ordinance or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the Local License.

4. The Town Clerk, or designee, with the endorsement of the Selectmen Chair, shall have the authority to approve De Minimis Changes to an existing license subject to continued compliance with this Section and Section 10 below.

Section 8. License Expiration and Renewal.

- A. Term of License. Each Local License issued shall be effective for one year from the date of issuance.
- B. Renewal Deadline. Renewal applications must be submitted at least forty-five (45) days prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.
- C. Transferability and Location Change. All licenses issued under this Ordinance may be transferred to a new owner if the Licensee submits a transfer of ownership form made available by the Town. Upon receipt of said form, the Town Clerk shall immediately grant the Licensees change in ownership under the license. The Town Clerk shall complete and return any document from the State of Maine or the Office of Cannabis Policy if required to do so by state law, rule or regulation. Licenses are limited to the location 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 Local License for that location.

Section 9. Denial, Suspension or Revocation of License.

- A. A Local License under this Ordinance shall be denied to the following Persons:
 1. A Person who fails to meet the requirements of this Ordinance. Where an Applicant is a legal entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.
 2. A Person who has had a license for a Cannabis Establishment revoked by any town in the State or by the State.
 3. An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.
- B. The Town may suspend or revoke a Local License for any violation of this Ordinance, Zoning Ordinance or any other applicable building and life safety code requirements. The Town may suspend or revoke a Local License if the Licensee has a State License for a Cannabis Establishment suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation, except where the reason for suspension or revocation could reasonably threaten health, safety, or welfare, as long as notice and a hearing is provided as soon as practicable.

Section 10. Performance Standards for Licenses.

- A. General. Must comply with applicable state and local laws and regulations.
- B. Fixed Location. May only sell Cannabis in person, directly to the purchaser, and out of a fixed and licensed location.
- C. Age Restrictions. May not allow any individual under the age of 18 to enter their Licensed Premises, including as an employee. Age Registration shall be posted on the front, exterior door of

the Medical Cannabis Retail Store. All identifications must be checked upon entering the Licensed Premises.

D. Zoning. Must be located on Route 5 or Route 202 in the Village (V) or the Agriculture and Residential (AR) Zones. If required by the Town, Applicant shall provide a copy of the change of use approval or site plan approval as required by the Town's ordinances. No Medical Cannabis Retail Stores shall be permitted in any residential dwelling.

E. Setbacks.

1. No Medical Cannabis Retail Stores shall be located on property within 1,000 feet of the property line of a preexisting school as required and defined in Section 5(G) of this Ordinance. Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the Marijuana Establishment is located. If the Marijuana Establishment is located within a commercial subdivision, the required setback shall be measured from the closest portion of a building that is used for the Marijuana Establishment to the property line of the school. Presence of a town, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
2. No Medical Cannabis Retail Store shall be sited within two thousand (2,000) feet of another Medical Cannabis Retail Store. The distance cited in this subsection shall be measured as the shortest straight-line distance from the primary public building entrance from one establishment to the other. If there are multiple public building entrances at an establishment, the shortest measurement between the two establishments shall be considered the separation distance for purposes of this subsection.

F. Hours of Operation. Medical Cannabis Retail Store may be open to the public between the hours of Monday through Sunday from 6:00 AM until 10:00 PM EST. All hours shall be posted on the front, exterior door of the Medical Cannabis Retail Store.

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

1. *Cameras*. 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 Licensed Premises. All security recordings shall be preserved for at least seventy-two (72) hours. Medical Cannabis Retail Store shall provide Code Enforcement and the Town Clerk the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the Medical Cannabis Retail Store.
2. *Intrusion System*. 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 order.

3. *Safe/Storage.* A locking safe or its functional equivalent, including a locked closet or locked display cases, permanently affixed Cannabis and cash stored overnight on the Licensed Premises.
 4. *Lighting.* Exterior lighting that illuminates any exterior entrance into the Licensed Premises and complies with applicable provisions of the Town's ordinances; and
 5. *Locks.* Deadbolt locks on all entrances to the Licensed Premises, and locks on any other access points to the establishment (e.g., windows). If building entrances are shared with other tenants, the establishment shall ensure that security measures do not prevent or restrict building access by other tenants.
 6. *Window Coverings.* All windows shall have window coverings up to five (5) feet to ensure no Cannabis displayed or sold in the Medical Cannabis Retail Store is visible from outside the Licensed Premises.
- H. Exterior Signs. In addition to the sign regulations contained in Article 5 of the Town's Zoning Ordinance, all signage in connection with a Medical Cannabis Retail Store shall comply with the requirements for signs under Title 28-B of the Maine Revised Statutes, and any regulations adopted thereunder.
- I. Interior Signage. The Licensee shall post one informational sign inside the Licensed Premises that is in a place visible to patients. The informational sign must be clear and readable, not less than 22 inches wide and 26 inches in height. The informational sign must contain the following statements: (1) You must be 18 or older and possess a valid Qualifying Patient or Visiting Qualifying Patient card; (2) It is against the law to use or be under the influence of cannabis while operating any motor vehicle; (3) It is against the law to consume cannabis in public; (4) It is against the law to transport cannabis across state lines; and (5) Cannabis will not be sold to a visibly intoxicated person.
- J. Insurance. Must procure and maintain commercial general liability coverage in the minimum amount of \$1,000,000 per occurrence for bodily injury, death, and property damage.
- K. Right of Access /Inspection.
1. Medical Cannabis Retail Store shall allow the Code Enforcement and Fire Department to enter the Licensed Premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance.
 2. Applicant or Licensee shall agree to be inspected annually by Code Enforcement and the Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access. Knox Boxes shall be obtained and installed in coordination with the Waterboro Fire Department.
- L. Other Prohibitions.
1. *On-Premises Consumption Prohibited.* Consumption of Cannabis on the Licensed Premises, including in the parking lot of the Licensed Premises is prohibited.
 2. *Free Samples Prohibited.* Medical Cannabis Retail Store may not distribute Cannabis free of charge.

3. *No Drive Throughs.* A Medical Cannabis Retail Store may not use a drive through window, or any other outdoor space to sell Cannabis.

Section 11. Indemnification.

By accepting a Local License issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of the sale of Cannabis from the licensed Medical Cannabis Retail Store.

Section 12. State Law.

In the event the State adopts any additional or stricter law or regulation governing the Medical Cannabis Retail Store, the additional or stricter regulation shall control. Compliance with all applicable State laws and regulations shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with State laws or regulations shall be grounds for revocation or suspension of any license issued hereunder.

Section 13. Enforcement. Violations.

Any violations of this ordinance, including failure to comply with any conditions, may be enforced in accordance with 30-A M.R.S.A. § 4452. Every day a violation exists constitutes a separate violation. Operation of any Medical Cannabis Retail Store without a town license shall be a violation of this Ordinance. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the Code Enforcement. Upon such Code Enforcement notification, and failure of the licensee or other individual or business to take the required remedial action in a timely manner, the Town can pursue fines and/or penalties under 30-A M.R.S.A. § 4452, with fee minimum amount of \$100 and the maximum amount of \$1,000.

Section 14. 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.

Section 15. Effective Date.

The effective date of this Ordinance shall be 30 days following adoption by Town.