

TOWN OF WALDOBORO  
MEDICAL MARIJUANA LICENSING ORDINANCE

**1. Authority.**

This Ordinance is enacted pursuant to authority granted under 22 M.R.S.A. §2429-D (Maine Medical Use of Marijuana Act (Local Regulation)).

In addition to the rules set in this Ordinance, permitted uses are also bound to the provisions of the Waldoboro Land Use Ordinance.

**2. Purpose.**

To establish procedures and standards for the operation of Registered Caregivers and two (2) grandfathered municipally-approved Registered Caregiver Retail Stores; and to require their annual licensing for permitted uses.

**3. Definitions.**

As used in this Ordinance, the terms shall be defined as indicated below. All non-defined terms shall have the same definition as set forth in the Town of Waldoboro Land Use Ordinance.

**Effective Date, Date of Applicability:** This Ordinance shall take effect immediately upon its adoption (“Effective Date”). Notwithstanding the provisions of 1 M.R.S.A. Section 302 or any other law to the contrary, and regardless of the Effective Date, this Ordinance shall apply to all Registered Caregivers within the Town of Waldoboro as of April 12, 2022 (“Date of Applicability”).

**License:** An annual certification by the designated Municipal Authority.

**Licensee:** A designated representative applying for a License through the Waldoboro Town Office.

**License Premises:** A location specified in the application for a license pursuant to this Ordinance or within a license issued pursuant to this Ordinance.

**Municipal Authority:** The designated representative from the Town of Waldoboro Town Office responsible for providing formal approval for the proposed use(s) under this Ordinance.

**Qualifying Patient:** A person who has been a resident of the State of Maine for at least thirty (30) days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S.A. §2423-B.

**Registered Caregiver:** A person, or assistant of that person, who is registered by the Maine Department of Administrative and Financial Services, or other Department designated by Statute, per 22 M.R.S.A. §2425-A to provide care for Qualifying Patients in accordance with 22 M.R.S.A. §2423-A subsection 2.

**Registered Caregiver Retail Store:** A retail store, as defined under the Waldoboro Land Use Ordinance, that shares the lot with a Registered Caregiver Licensed Premises. Apart from two (2) locations in the Town of Waldoboro that received approval prior to December 13, 2018 and have continued their operation, no Registered Caregiver Retail Stores are allowed in the Town of Waldoboro.

**State Registration Authority:** The authority created or designated by the State for the purpose of regulating and controlling registration for Registered Caregivers. Unless otherwise defined in this Ordinance, the terms referred to in this Ordinance shall mean the same as they are defined in the definitions section in 22 M.R.S.A. §2422 and when not defined in Statutes as they are referenced in Title 22 of the Maine Revised Statutes.

#### **4. Establishments allowed; License required**

Pursuant to 22 M.R.S.A. §2429-D, the operation of Registered Caregivers is allowed, subject to the restrictions of this Ordinance and applicable State and local law. No person shall operate as a Registered Caregiver, nor shall any property owner permit the use of their premises to be operated as a Registered Caregiver, without a valid license issued by the Town. A separate license must be obtained for each Registered Caregiver located on the same premises.

**4.1 License Requirement.** Effective July 7, 2022, a Registered Caregiver shall not begin, or continue operations, unless it has received, and is in possession of, a license issued pursuant to this Ordinance.

The licensing requirements of this Ordinance shall not be construed or applied to prohibit the operation of Registered Caregivers continuously operating with municipal approval before the implementation of this Ordinance. However, as of the enactment of this Ordinance, all such Registered Caregivers must comply with all requirements set in this Ordinance. Registered Caregivers operating prior to the enactment of this Ordinance will not be penalized nor required to pay additional fees for the operations conducted prior to the enactment of this Ordinance.

**4.1.1 Validity.** Each license is valid for a period of one (1) year from the date of issuance by the designated Town Official. A license must be obtained prior to commencing or continuing operation of a Registered Caregiver.

Applications for renewal licenses shall be submitted at least ninety (90) days prior to expiration of the existing term. Any licensee that fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted.

**4.2 New Applications.** Each applicant for a Registered Caregiver license shall complete and file an application on the form provided by the Town Clerk, together with the applicable nonrefundable license fee, as well as the following supporting documents:

**4.2.1** A copy of the Applicant's State of Maine registration application and supporting documentation, as submitted to the State registration authority.

**4.2.2** Evidence of all State approvals or conditional approvals required to operate as a Registered Caregiver, including, but not limited to, a State of Maine registry identification card or registration certificate.

**4.2.3** An affidavit that identifies all owners or partners of the Licensed Premises as well as their places of residence at the time of the License submission. This shall be proven through a valid document verifying ownership such as an operating agreement, articles of incorporation, bylaws, or articles of association that govern the entity that will own and/or operate the Licensed Premises.

**4.2.4** A document describing the nature of the business as well as all products and services offered to the customers, and the method of distribution. The narrative should include a reference to any combustible/ flammable hazards that may be located on this site, and what steps are being taken by the Registered Caregiver to avoid unintended exposure.

**4.2.5** Evidence of ownership in the premises in which the Registered Caregiver will be located. A valid form may include a copy of the deed or a signed form of interest. If the applicant is not the owner of the property, the owner of the property must provide a written consent stating they are aware of the intended use to create a Registered Caregiver.

**4.2.6** Evidence of all applicable municipal approvals, or conditional approvals. These approvals include, but are not limited to, building permits, Land Use Ordinance approvals, Planning Board approval, and/or certificate of occupancy.

**4.2.7** Evidence of all State approvals associated with the permitted use.

**4.2.8** Evidence of compliance with the requirements of this Ordinance and all applicable standards listed in the Waldoboro Land Use Ordinance.

**4.2.9** All materials used in the extraction, processing, and growing of Medical Marijuana is fully compliant with State and local regulations. This includes Section 7.8 of the Waldoboro Land Use Ordinance (Refuse Disposal).

**4.2.9.1** All disposal within a designated Shoreland Zone is prohibited.

**4.2.10** The Applicant must consult with a licensed elector contractor or electrician to validate that their current electrical supply is adequate for the power usage they need for their operation, and that their wiring, circuit boards, stepdown transformers, and all other components of their electrical power system comply with the most recent National Electrical Code.

**4.2.11** The Applicant shall furnish proof of general liability insurance in the amount of \$1,000,000 to ensure adequate financial protection in the event of injury or damage caused to members of the public.

If the Town Clerk determines that a submitted application is not complete, the Clerk shall notify the applicant within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the Clerk's request, the application may be denied, and the applicant will be required to resubmit all documents.

**4.3 Review of Application** A license application for a Registered Caregiver shall be denied by the Code Enforcement Officer, and an existing license may be suspended or revoked by the Code Enforcement Officer after notice, if the applicant or any owner of the applicant or licensee:

- 4.3.1** Fails to meet the requirements of this Ordinance;
- 4.3.2** Is not at least twenty-one (21) years of age;
- 4.3.3** Is not a resident of the State of Maine;
- 4.3.4** Has had a license revoked by a municipality or by the State of Maine;
- 4.3.5** Has not acquired all necessary State and local approvals prior to issuance of the license, including any approvals required by the Planning Board or Code Enforcement Officer;
- 4.3.6** Has provided false or misleading information in connection with the license application.

Upon determination by the Code Enforcement Officer that the applicant has met the requirements of this Ordinance, the Town Clerk shall be authorized to issue the license.

#### **4.4 Update Information**

Any individual issued a license under this Ordinance shall have the duty to maintain updated and accurate information regarding all the information provided pursuant to the application process within ten (10) days of any change of status. Failure to provide and maintain current and accurate information may result in revocation of the applicant's license.

#### **4.5 Operating Requirements**

To obtain a license pursuant to this Ordinance, the applicant shall demonstrate to the Code Enforcement Officer that the following requirements will be met:

**4.5.1 Fixed Location.** All licensed premises shall be fixed, permanent locations. Licensees shall not be permitted to operate in locations other than the Licensed Premises. No temporary locations, including, but not limited to, farmer's markets, farm stands, and kiosks are allowed.

**4.5.1.1** The licensed premises of a Registered Caregiver not in operation before the Effective Date of this Ordinance must be a minimum of one thousand (1000) feet from the lot of an established school (public or private), outdoor recreation operated by a public entity, place used to conduct religious worship, licensed day care facility, or a licensed substance abuse rehabilitation facility.

**4.5.1.1.1** If the Licensed Premises within the setback received approval from the Municipal Authority prior to the enactment of this Ordinance, they may continue to operate within said setback as a Non-Conforming Use as defined under the Waldoboro Land Use Ordinance, and will be applicable to all restrictions as such.

**4.5.1.2** The Licensed Premises of a Registered Caregivers not in operation before the Effective Date of this Ordinance shall be considered "Commercial" within the Waldoboro-designated Shoreland Zones, and is applicable to the zoning restrictions

**4.5.2 Display of License.** No license issued under this Ordinance may be assigned or transferred to another entity. Any change in ownership or change in the officers shall require a new license. Licenses are limited to the premises for which they are issued and are not transferable to another location. The license shall be displayed at all times in a conspicuous place in the establishment for which the license is issued.

**4.5.3 Security.**

**4.5.3.1** The licensed premises shall have lockable doors and windows that shall be served by an alarm system, which includes automatic notification to a private alarm service. Upon notification of an alarm, the licensee or an authorized representative must respond to the emergency at the premises.

**4.5.3.2** The licensed premises shall have video surveillance capable of covering the exterior and interior of the facility. The video surveillance system shall be operated with continuous recording twenty-four (24) hours per day, seven (7) days per week, and video shall be retained for a minimum duration of fourteen (14) calendar days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.

**4.5.3.3** The lighting shall not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. The Code Enforcement Officer may require a light source to be modified or removed even though it may have been approved if such a light source causes a hazard.

**4.5.3.4** A certified central alarm system is in place for all doors and windows.

**4.5.3.5** All exterior doors have deadbolt locks. All windows must have locks.

#### **4.5.4 Ventilation**

**4.5.4.1** The licensed premises shall comply with all odor and air pollution standards established by Ordinance.

**4.5.4.2** All Registered Caregivers shall have an odor mitigation system installed that has been approved by a Maine licensed engineer, indicating that the system will provide odor control enough to ensure that no odors are perceptible off the premises.

**4.5.4.3** For Registered Caregivers operating within a shared building, odors must not be detectable at the exterior of the unit unless permission is granted by the shared tenant(s).

#### **4.5.5 On-site use**

**4.5.5.1** The facility owner/ operator shall make adequate provisions to prevent patrons from loitering on the Licensed Premises. It shall be the obligation of the Licensee to ensure that anyone found to be loitering in the parking lot or other outdoor areas of a Licensed Premises or the abutting properties is ordered to leave.

**4.5.5.2** The consumption, ingestion, or inhalation of Medical Marijuana on premises must occur indoors if permitted by the owner of the building.

**4.5.5.3** Applicants that intend to have Medical Marijuana consumed, ingested, or inhaled outdoors must demonstrate that odor cannot be detected by abutters at property lines and is screened to minimized detection by abutters and people traveling public ways. Those who fail to demonstrate or violate this clause must revert to indoor use.

**4.5.6 Compliance.** A Registered Caregiver shall meet all operating and other requirements of State and local law. To the extent the State of Maine has adopted, or adopts, in the future any law or regulation governing marijuana establishments that conflicts in any ways with the provisions of this Ordinance, the more restrictive shall control.

#### **4.5.7 Signs**

**4.5.7.1** In addition to the requirements in the Waldoboro Land Use Ordinance, only one (1) sign is allowed on the Licensed Premises that identifies the Registered Caregiver but which is not an advertisement.

**4.5.7.2** Signs must follow the setback requirements listed in Section 4.5.1.1 of this Ordinance.

### **4.6 Violation Penalties**

In addition to revocation or suspension of a Registered Caregiver license, as provided in this Ordinance, the violation of any provision of this Ordinance shall be punished by a fine of not less than \$500.00 nor more than \$2,500.00 for each offense. Each act of violation and every day upon which any such violation shall occur will constitute a separate offense. In addition to such

penalty, the Town may enjoin or abate any violation of this Ordinance. All fines and penalties, together with costs of prosecution of violations, which shall include the Town's cost and attorney's fees, shall inure to the benefit of the Town. This section shall be enforced by the Waldoboro Police Chief, the Waldoboro Code Enforcement Officer, and/ or their designees. Notice of violations by Registered Caregiver licensees of other provisions of this Code shall be provided by the Police Chief, Town officers, and Town Attorney.

Remediation for violations shall be addressed within fifteen (15) days of receipt of a first class-certified letter from the Code Enforcement Officer. The letter from the Code Enforcement shall cite the Sections of this Ordinance, and any applicable State of Maine statutes, that the Licensee is in violation of.

#### **4.7 Appeals**

An appeal from any final decision of the Select Board or Code Enforcement Officer under this Ordinance may be taken by any party to the Board of Appeals within thirty (30) days of the decision, pursuant to Article 5 (Appeals) of the Waldoboro Land Use Ordinance.

#### **4.8 License Limitations**

**4.8.1 Registered Caregivers.** As stated in Section 2429-D (Local Regulation) of the Maine Medical Use of Marijuana Act, the Town of Waldoboro may not prohibit or limit the number of Registered Caregivers.

**4.8.1.1 Outdoor Cultivation.** Outdoor Cultivation for associated Medical Marijuana Registered Caregivers is only permitted in the Rural District of Waldoboro, as designated by the Land Use Ordinance. The Licensee must demonstrate the odor cannot be detected at the property line, and there are sufficient measures to demonstrate the outdoor areas are not easily accessible by unauthorized individuals. If the applicant fails to address both items, they must convert to growing their product indoors when their license is up for renewal. Cultivation for Registered Caregivers taking place outside the Rural District must be done indoors using a certified ventilation system.

If the Licensed Premises is outside the Rural District, yet received approval from the Municipal Authority prior to the enactment of this Ordinance, they may continue to operate as a Non-Conforming Use as defined under the Waldoboro Land Use Ordinance, and will be applicable to all restrictions as such.

**4.8.2.** Uses that are not listed under Section 4.8 (License Limitations) of this Ordinance but were given approval from a Municipal Authority to operate prior to the enactment of this Ordinance and/or applicable State Statutes, may continue to operate if they can demonstrate operation prior to this Ordinance.

**4.8.3** If a Registered Caregiver use has not been listed under this section, then it is considered prohibited until, and unless, the Ordinance is amended.

**4.8.4** The Town of Waldoboro has not opted into the operation of any Medical Marijuana use with the exception of Registered Caregivers and two (2) previously approved Registered Caregivers Retail Stores. Therefore, only Registered Caregivers and two (2) previously approved Registered Caregiver Retail Stores may operate in the Town of Waldoboro, subject to the licensing requirements hereunto described.

**5. License Fees**

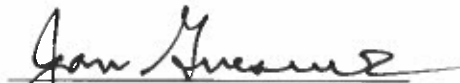
The annual license fees shall be set by the Town of Waldoboro Select Board as part of the Town's licensing and permit fee schedule. Fees are in effect at the Effective Date of this Ordinance, and shall remain in effect until such time as new fees are set by the Select Board after public notices, public hearing, and an official motion by the majority of the Select Board.

**6. Severability**


If any section, phrase, sentence, or portion of this Ordinance is, for any reason, held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not impact the validity of the remaining portions thereof.

**Select Board Authorization:**

  
Abden Simmons, Chair

  
Jan Griesenbrock, Vice-Chair

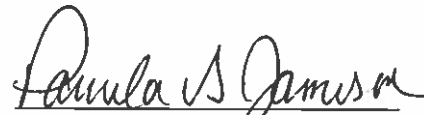
  
Jan Minzy, Member

  
Robert Butler, Member

  
Will Pratt, Member

Attest: A true copy of the ordinance entitled, "Town of Waldoboro Medical Marijuana Licensing Ordinance", as certified to me by the municipal officers of Waldoboro, Maine on

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Pam Jameson, Town Clerk