

TOWN OF WEST GARDINER CAREGIVER RETAIL STORES LICENSING ORDINANCE

I. PURPOSE AND AUTHORITY

- A. To regulate the licensing and operation of Caregiver Retail Stores within the Town of West Gardiner ("the Town"), as authorized by the Maine Medical Use of Cannabis Act, 22 M.R.S. §2421 et seq., including all regulations or amendments thereto. The Town reserves the right for additional siting and license requirements pursuant to Municipal Home Rule Authority and 30-A M.R.S.A. 3001 et seq.
- B. By enacting this Ordinance, the Town of West Gardiner is authorizing the establishment and operation of a Caregiver Retail Store. Registered dispensaries, medical cannabis testing facilities, and medical cannabis manufacturing facilities are not permitted in the Town of West Gardiner.

II. DEFINITIONS

Caregiver Retail Store - means a store 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.

License - Means a document issued by the Town officially authorizing an applicant to operate a Caregiver Retail Store.

Town - Means the Town of West Gardiner.

III. NEW OR EXISTING BUILDING REQUIREMENTS

- A. Select Board Review - The West Gardiner Select Board shall review all applications for a license for the construction and operation of a new Caregiver Retail Store or permission for the change of use of an existing building to a Caregiver Retail Store.
- B. Signage -All signage must comply with 22 M.R.S.A 2429-B.
- C. Security- Security requirements shall include:
 - t. Lockable doors and windows to include intrusion alarms with audible notification components sending notification directly to the owner or through a second party to the law enforcement agency with jurisdiction over the licensed premises.
 - 11. Video surveillance capable of covering the exterior and the interior of the facility.

The video surveillance system shall be operated with continuous recording twenty-four (24) hours per day, seven days per week and such records of surveillance shall be retained for a minimum duration of thirty (30) days. Such records shall be made available to law enforcement agencies pursuant to a valid subpoena when investigating a criminal complaint.

iii. Exterior Lighting - shall illuminate the exterior walls of the licensed premises from dusk to dawn, that is either constantly on or activated by motion detectors.

D. Permanent Location - Each Caregiver Retail Store shall be operated from a fixed, permanent location. Licensees shall not be permitted to operate a Caregiver Retail Store in any other than the licensed premises. No Caregiver Retail Store shall be licensed to operate from a movable, mobile, or transitory location, however, deliveries to patients with valid medical cannabis cards is an authorized caregiver activity.

IV. LICENSE APPLICATION FOR OPERATION

A person seeking a license or renewal of a license issued pursuant to this Ordinance shall submit an application to the Town Clerk on approved forms provided by the Town.

Each applicant for a Caregiver Retail Store shall complete and file an application on the form provided by the Town, together with the applicable non-refundable license fee, as well as the following supporting materials:

- A. Evidence of all State approvals required to operate a Caregiver Retail Store, including but not limited to a State registry identification card or registration certificate.
- B. A description of the form of ownership of the business enterprise together with attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the Caregiver Retail Store.
- C. An affidavit that identifies all owners, officers, members, managers or partners of the applicant, their ownership interests and their places of residence at the time of the application and for the immediately preceding three (3) years. Supporting documents shall be provided. Such documents include but are not limited to: motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.
- D. A release for each applicant and for each officer, owner, member, manager or partner of the applicant seeking a license allowing the Town of West Gardiner to obtain criminal records and other background information related to the individual.
- E. A statement as to the precise nature of the business with a description of the nature of all products and services offered.

- F. A description of the premises for which the license is sought, including a plan of the premises.
- G. Copy of a deed, lease, purchase and sale agreement or other evidence of an interest in the premises in which the Caregiver Retail Store will be located along with the written consent of the owner of the premises for such use if the applicant is not the owner.
- H. Evidence of compliance with the requirements of this ordinance and all other Ordinances of the Town.

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.

V. LICENSE REQUIREMENT

Any person operating a Caregiver Retail Store within the Town must obtain an annual license which shall be reviewed pursuant to the requirements set forth in this Ordinance, as well as the criteria and regulations as set forth in the Maine Medical Use of Cannabis Act, including all regulations or amendments thereto. All licenses for a Caregiver Retail Store shall require review and approval by the West Gardiner Town Select Board.

A. Public Hearing.

i. A public hearing by the Select Board 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 Kennebec County.

ii. 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 Board. 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 of West Gardiner.

B. Review of Application.

A license application for a Caregiver Retail Store shall be denied by the Select Board and an existing license may be suspended or revoked by the Select Board after notice and hearing if the applicant or any owner of the applicant or licensee does not meet the following requirements:

i. Fails to meet the requirements of this Ordinance.

11. Is not at least twenty-one (21) years of age.

- iii. Has had a license for a cannabis establishment revoked by a municipality or state.
- iv. Has not acquired all necessary state and local approvals prior to issuance of the license.
- v. Has been convicted of a disqualifying drug offense.
- vi. Has provided false or misleading information in connection with the license application.

C. Conditions

Licenses will only be issued for a Caregiver Retail Store that is located no less than 1000 feet from the property line of a pre-existing private or public school, state licensed day care center, public athletic field, park, playground or recreational facility.

- i. Licenses shall be kept current at all times.
- ii. Licenses are valid for one (1) year.
- iii. The License must be posted in a conspicuous location at the Caregiver Retail Store.
- iv. Caregiver Retail Store Licenses are not transferable to a new owner. A transfer in ownership interest, change in the officers of an owner, of greater than 50% of the ownership interest or officer shall require a new license. 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.
- v. Upon receipt of an application for a new license or renewal, the Select Board shall review the application for approval within forty-five (45) days after receipt of the completed application. Renewal applications must be submitted at least 45 days prior to the date of expiration of the annual license. An application for the renewal of an expired license shall be treated as a new license application.
- vi. Incomplete applications will not be processed.
- vii. Initial and Renewal License fees charged under this ordinance will be in accordance with a Town fee schedule determined by the Select Board. All fees are non-refundable and due upon receipt of the approved application.

VI. SUSPENSION OR REVOCATION

- A. After notice and hearing, the Select Board may suspend, revoke, or refuse to renew a license for a Caregiver Retail Store for failing to comply with this Ordinance and/or the Maine Medical Use of Cannabis Act.
- B. In suspending, revoking, or refusing to renew a license for a Caregiver Retail Store the Select Board may take into consideration:
 - 1. Number and types of complaints law enforcement received, investigated, and substantiated.
 - ii. Failing to correct or abate any violation that the Code Enforcement Officer is authorized to enforce.

VII. APPEALS

Any appeal of a decision of the Select Board to issue, issue with conditions, deny, or revoke a license, or by any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance by the CEO, shall be to the Superior Court in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

VIII. LIMITATION ON NUMBER OF LICENSES

There shall be only one license issued under this ordinance. The issuance of the license is on a first come first served basis based on the date the license application is received.

IX. REGULATIONS

Regulations pertaining to this ordinance shall comply with the Maine Medical Use of Cannabis Act, including all regulations or amendments thereto.

X. RIGHT OF ACCESS

Every operator of a Caregiver Retail Store shall allow code enforcement officers to enter the premises with advance notice at reasonable times for substantiating compliance with this Ordinance.

XI. INDEMNIFICATION

- A. By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of any Caregiver Retail Store owners, operators, employees, clients or customers for a violation of local, state or federal laws, rules or regulations.
- B. By accepting a license issued pursuant to this Ordinance, all licensees, jointly and severally if more than one (1), agree 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 or in any manner connected with the operation of licensed Caregiver Retail Store.

XII. STATE LAW

In the event the State of Maine adopts any additional or stricter laws or regulations governing Caregiver Retail Stores, compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance. Furthermore, any noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

XIII. AMENDMENTS

This Ordinance may be amended by the Town after proper notice and town meeting. Amendments shall take effect seven (7) days after passed by town vote and remain in effect until further amended or repealed.

XIV. PENALTIES

This Ordinance shall be enforced by the municipal officers or their designee. Violations of this Ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. §4452.

XV. SEVERABILITY

If any provision of this Ordinance is determined invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining portions of the Ordinance.

XVI. EFFECTIVE DATE

This ordinance becomes effective immediately upon approval by the Town Meeting vote.

ARTICLE 47: To see if the Town will vote to accept the changes to the "Caregiver Retail Store Licensing Ordinance".

Adopted as written 04/06/2024

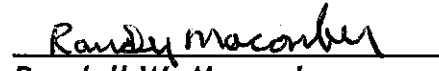
Certified by:


Angela J. Phillis

Enacted: 10/05/2023
Amended: 04/06/2024


Gregory A. Couture


Gary M. Hickey II


Randall W. Macomber
Select Board
Town of West Gardiner