

**TOWN OF WEST GARDINER
MEDICAL CANNABIS CULTIVATION FACILITIES LICENSING
ORDINANCE**

ARTICLE 1: PURPOSE

1. The cultivation of medical cannabis is an authorized, regulated program of the State of Maine; and
2. There have been an increasing number of requests regarding the establishment of medical cannabis cultivation facilities; and
3. State law specifically authorizes municipalities to regulate registered caregivers for the cultivation of medical cannabis as long as such regulations do not prohibit or limit the number of registered caregivers in the municipality under the Maine Medical Use of Cannabis Act, 22 M.R.S. § 2429-D; and
4. Operations related to the cultivation of medical cannabis raise a number of concerns related to public safety and welfare, including, but not limited to: Potential adverse effects on neighborhoods, security of the facilities and odors that may create a public nuisance or hazard.

ARTICLE 2: AUTHORITY AND ADMINISTRATION

1. Authority: This Ordinance is adopted pursuant to and consistent with 30-A M.R.S. §3001 et seq., and 22 M.R.S §2429-D.
2. Administration: This ordinance shall be administered by the Town of West Gardiner's Select Board and enforced by the Code Enforcement Officer.

ARTICLE 3: APPLICABILITY

Notwithstanding the provisions of 1 M.R.S. §302, this Ordinance shall apply to any proposal to establish, operate or expand a medical cannabis cultivation facility at a location other than the caregiver's primary location of residence, whether or not an application or a proceeding to establish or operate a business or operation for a medical cannabis cultivation facility submitted to the Town would be deemed a pending proceeding under 1 M.R.S. §302.

By enacting this Ordinance the Town of West Gardiner is authorizing the establishment and operation of Medical Cannabis Cultivation Facilities pursuant to a state-issued Caregiver license or a state-issued non-retail medical dispensary license. Medical Cultivation Facilities are prohibited from providing retail sales, either through a retail store or delivery. Cultivation operations authorized under a state-issued non-retail medical dispensary license shall not exceed 5000 square feet of flowering canopy.

ARTICLE 4: NEW APPLICATIONS

Each applicant for a medical cannabis cultivation facility license 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:

1. A copy of the applicant's State registration application and supporting documentation, as submitted to the State registration authority.
2. Evidence of all State approvals required to operate a medical cannabis cultivation facility, including but not limited to a State registry identification card or registration certificate.
3. 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 medical cannabis cultivation facility.
4. 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.
5. 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 if the Board chooses.
6. A statement as to the precise nature of the business with a description of the nature of all products and services offered.
7. A description of the premises for which the license is sought including a plan of the premises.
8. Copy of a deed, lease, purchase and sale agreement or other evidence of an interest in the premises in which the medical cannabis growing facility will be located along with the written consent of the owner of the premises for such use if the applicant is not the owner.
9. Evidence of compliance with the requirements of this ordinance and all other Ordinances of the Town.
10. A copy of the security plan to show compliance with Article 7(4) of this Ordinance.
11. A copy of the odor and ventilation plan, as required by Article 7(7) of this Ordinance.

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.

ARTICLE 5: STANDARDS and PROCESS FOR APPROVAL

1. Public hearing.

a) 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.

b) 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.

2. Review of Application.

A license application for a medical cannabis cultivation facility 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:

- a) Fails to meet the requirements of this ordinance.
- b) Is not at least twenty-one (21) years of age.
- c) Has had a license for a cannabis establishment revoked by a municipality or by a state.
- d) Has not acquired all necessary state and local approvals prior to issuance of the license.
- e) Has been convicted of a disqualifying drug offense.
- f) Has provided false or misleading information in connection with the license application.

3. Suspension and Revocation.

The Select Board may suspend or revoke a license for any violation of this Ordinance or any other applicable building and life safety code requirements. 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.

ARTICLE 6: LICENSE EXPIRATION AND RENEWAL.

The Select Board shall have the authority to approve license and renewal applications 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 license.

1. Each license issued shall be effective for one year from the date of issuance.
2. 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.
3. Licenses issued under this Ordinance 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.

ARTICLE 7: OPERATING REQUIREMENTS

In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate (to the Select Board) that the following requirements will be met. A licensee shall comply with all these requirements during the term of the license.

1. **Fixed Location:** All licensed premises shall be fixed, permanent locations. Licensees shall not be permitted to operate a medical cannabis cultivation facility in any other than the licensed premises. This premises shall not be located within 1000 feet of any pre-existing public or private school or preschool, as defined in 20-A M.R.S. § I. No outdoor cultivation, testing, manufacturing, of medical cannabis will be allowed at this facility.
2. **Compliance with requirements of State of Maine and local Law:** A medical cannabis cultivation facility shall meet all operating and other requirements of State and local laws, ordinances, and regulations. To the extent the State of Maine or local ordinances currently adopted or adopted in the future are stricter than this ordinance, then the stricter law or ordinance shall apply.
3. **Display of License:** The current local license shall be displayed at all times in a conspicuous location within the licensed premises. All State of Maine license requirements must be met by the applicant and also displayed near this license.
4. **Security:** The licensed premises shall have lockable doors and windows and shall be served by an alarm system that notifies the owner/operator and the law enforcement agency with jurisdiction over the licensed premises. A video surveillance system shall be required and must be operating continuously showing the interior and exterior of the building, and such records must be available to law enforcement agencies pursuant to a valid subpoena when investigating a criminal complaint. The licensed premises shall have exterior spotlights with motion sensors covering the full perimeter of all buildings on the premises.
5. **Loitering:** The facility owner/operator shall make adequate provisions to prevent any persons from loitering on said premises. It shall be the licensee's obligation to ensure that anyone found loitering or using cannabis or cannabis products in the parking lot or other

outdoor areas of the licensed premises is ordered to leave.

6. **Right of Access/Inspection:** Every medical cannabis cultivation facility shall allow the West Gardiner Code Enforcement Officer ("CEO") and Fire Department to enter the premises with advance notice at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance. Due to fire, explosion, and other hazards inherent in medical cannabis cultivation facilities including but not limited to heavy electrical loads, hot lighting fixtures, CO2 enrichment and flammable contents, the owners and/or operators of all such facilities shall agree to an initial fire inspection as well as annual fire inspections by the Town of West Gardiner Fire Department. A lock box shall be installed at the structure's exterior entrance for emergency access. The lock box shall be installed in coordination with the Town of West Gardiner Fire Department.

7. **Ventilation Plan:** All medical cannabis cultivation facilities shall have odor mitigation systems such that odor is imperceptible from any adjoining property line. A ventilation plan shall be required that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or manufacturing of cannabis or cannabis related products from being dispersed or released outside the building or lease line. The plan shall further provide for resulting vapor, fumes, gases and particulates to be effectively confined to the building or lease line.

ARTICLE 8: LIMITATION ON NUMBER OF LICENSES

There shall only be five licenses issued under this ordinance awarded on a first-come, first-served basis as determined by the date the Town Clerk receives a complete application and the required fees.

ARTICLE 9: LICENSE FEES

Initial and renewal license fees shall be set by the Select Board as a part of an annual fee schedule. All fees are non-refundable and due upon receipt of the approved application.

ARTICLE 10: ENFORCEMENT, VIOLATION AND PENALTIES

This ordinance shall be enforced by the Code Enforcement Officer of the Town of West Gardiner. Failure to apply for a license under this ordinance shall be deemed a violation of the ordinance. Any person who violates this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S. §4452.

ARTICLE 11: 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.

ARTICLE 12: SEVERABILITY

Should any section or provision of this ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

ARTICLE 13: DEFINITIONS

As used in this ordinance, the following terms have the following meanings:

Medical Cannabis Cultivation Facility: shall mean a cannabis cultivation area used or occupied by one or more medical cannabis registered caregivers, or a non-retail medical dispensary cultivation licensee, and a facility licensed under this ordinance to cultivate, prepare, and package medical cannabis. Residence-based Caregivers or Qualifying Patients are excluded from this definition.

Cultivation or Cultivate: The planting, propagation, growing, harvesting, drying, curing, grading, and trimming of cannabis for use or sale.

Disqualifying Drug Offense: shall mean "disqualifying drug offense" as that term is defined in 22 M.R.S. § 2422(4) as amended.

Cannabis: The leaves, stems, flowers, seeds, and other plant material harvested from the plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica, and Cannabis ruderalis or their hybrids or seeds of those plants. "Cannabis" includes any product derived from any Cannabis plant or plant material, including, but not limited to Cannabis concentrate and Cannabis products.

Medical Cannabis: Cannabis as allowed per the Maine Medical Use of Cannabis Act.

Registered Caregiver: As defined by the Maine Medical Use of Cannabis Act, 22 M.R.S. §2422(11).

Medical Dispensary Cultivation: As defined by the Maine Medical Use of Cannabis Act, 22 M.R.S. §2422 (6).

ARTICLE 48: To see if the Town will vote to accept the change to the "Medical Cannabis Cultivation Facilities Licensing Ordinance".

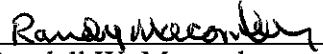
Adopted as written 04/06/2024

Certified By:


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Randall W. Macomber
Select Board
Town of West Gardiner

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