

ARTICLE XV (A) – MEDICAL CANNABIS LICENSING ORDINANCE

1. Title

This ordinance shall be known and cited as the “Medical Cannabis Licensing Ordinance” and will be referred to hereinafter as “this Ordinance”. This Ordinance prescribes definitions of Medical Cannabis businesses; provides for licensing and regulation of Medical Cannabis Licensing; and provides standards for Medical Cannabis Businesses.

2. Authority.

This article is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A(14) and 22 M.R.S. § 2429-D.

3. Purpose

The purpose of this article is to provide procedures and standards relating to the operation of medical cannabis establishments and to require their annual licensing.

4. Conflict with other ordinances or statutes; Severability

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, or State Law, the more restrictive provision shall apply.

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 affect the validity of the remaining portions thereof.

5. Effective Date

The effective date of this Ordinance, and the licensing of any medical cannabis establishment, medical cannabis dispensary, medical cannabis products manufacturing facility, or medical cannabis testing facility in Wiscasset thereunder, shall be the date of adoption by the voters at Town Meeting.

6. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

Medical cannabis establishment: a registered caregiver retail store, registered dispensary, medical cannabis testing facility, or medical cannabis manufacturing facility.

Medical cannabis testing facility: a public or private laboratory authorized under state law to test medical cannabis for contamination, potency, or cannabinoid profile.

Medical cannabis manufacturing facility: a manufacturing facility authorized under state law to manufacture cannabis products for medical use or to engage in cannabis extraction for medical use.

Registered caregiver retail store: a storefront operated by a licensed medical cannabis caregiver, which is operated in a facility separate from her/his personal address for the purpose of selling medical cannabis and related products to qualifying patients.

Registered dispensary: is an entity registered with the state to acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, supply, or dispense cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.

State registration authority: “State registration authority” means the authority created or designated by the state for the purpose of regulating and controlling registration for medical cannabis establishments.

Disqualifying drug offense: a 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 Cannabis Act.

7. Licensed Establishments allowed:

(1) Pursuant to 22 M.R.S. §2429-D, the operation of medical cannabis establishments is allowed, subject to the restrictions of this ordinance and applicable state and local law.

(2) No person shall operate a medical cannabis establishment, nor shall any property owner permit the use of his or her premises to be operated as a medical cannabis establishment, without a valid license issued by the town. Each license shall be for a period of one year from the date of its issuance. A license must be obtained prior to the opening of a medical cannabis establishment. 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.

(3) The licensing requirements of this ordinance do not apply to any medical cannabis establishment continuously operating with municipal approval since before December 13, 2018.

8. Distribution of Licenses, Priority Licensing Period

Applications will be processed in order of receipt of the completed application, including all applicable documentation and certified funds (cashier’s check, bank check, or cash).

9. Application

Each applicant for a medical cannabis establishment 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 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 or conditional approvals required to operate a medical cannabis establishment, including, but not limited to, a state registry identification card or registration certificate.

(3) If not included in the applicant's state registration application, 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 establishment.

(4) If not included in the applicant's state registration application, an affidavit that identifies all owners, officers, members, managers or partners of the applicant, and their ownership interests.

(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 Wiscasset to obtain criminal records and other background information related to the individual.

(6) A statement as to the precise nature of the business with a description of the nature of all products and services offered to its customers.

(7) A description of the premises for which the license is sought, including a plan of the premises and a list of all equipment, parts and inventory used in the operation of the medical cannabis establishment.

(8) Evidence of an interest in the premises in which the medical cannabis establishment will be located, together with the form of interest, along with the written consent of the owner of the premises for such use if the applicant is not the owner.

(9) Evidence of all land use approvals or conditional land use approvals required to operate the medical cannabis establishment, or applications that have been filed and are pending for the required approvals, including but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy.

(10) Evidence of all other approvals or conditional approvals required to operate the medical cannabis establishment, including any applicable food or victualer's license.

(11) Evidence of compliance with the requirements 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.

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

10. Investigation of applicant, officers, etc.

Upon receipt of an application or of a notice of a change of any of the individuals listed in Article 5 above, the town shall provide copies of the completed application to the following staff members for purposes of conducting the investigations and issuing reports as listed below:

(1) The Code Officer shall inspect the location or the proposed location to determine whether the applicable ordinances relating to land use issues and building and safety codes issues have been satisfied and shall report findings in writing to the Town Clerk.

(2) The Fire Chief or his/her agent shall inspect the location or proposed location to determine if all town ordinances and any other applicable regulations concerning fire, health, and safety have been satisfied and shall report findings in writing to the Town Clerk; and

(3) The Police Chief or his/her agent shall investigate the application, including the criminal history record information and shall report findings in writing to the Town Clerk.

11. Action on application.

(1) Public hearing. The Town Manager upon receipt of a completed application and upon receipt of the reports required under Article 6 above, shall schedule a public hearing at a regular or special meeting of the Board of Selectmen and shall arrange for public notice of the public hearing to appear in the newspaper of general circulation within the Town of Wiscasset at least six days prior to the date of the scheduled public hearing. Costs of the hearing notice shall be paid out of the license and processing fee.

(2) Board of Selectmen action. The Board after notice and public hearing, shall determine whether the applicant complies with the requirements of this article. Upon such determination by the Board, the Town Clerk shall be authorized to issue the license. The Selectboard shall have the authority to 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.

(3) The Selectboard reserves the right to hire independent third-party consultants at the applicant's expense to review proposals to determine the impact to surrounding properties or public safety implications or to resolve any other issues regarding the proposal.

12. Status of license

Display. No license issued under this article may be assigned or transferred to another entity. Any change in ownership or change in the officers of an owner 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 in a conspicuous place in the medical cannabis establishment for which the license is issued. The required licenses and notices must be posted in a location that is highly visible to the public or, if the medical cannabis business is not open to the public, in a location where they are readily visible to employees and staff.

13. Duty to update information

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

14. Standards for approval, denial, revocation.

A license application for a medical cannabis establishment shall be denied by the Board of Selectmen, and an existing license may be suspended or revoked by the Board of Selectmen after notice and hearing, if the applicant, or any owner of the applicant or licensee:

- (1) Fails to meet the requirements of this ordinance, including any applicable building and life safety code requirements.
- (2) Is not at least twenty-one (21) years of age.
- (3) Has had a license for a cannabis establishment or medical cannabis establishment revoked by a municipality or by the State.
- (4) Has not acquired all necessary state and local approvals prior to issuance of the license.
- (5) Has been convicted of a disqualifying drug offense.
- (6) Has provided false or misleading information in connection with the license application.

15. In suspending, revoking, or refusing to renew a license for a medical cannabis business, the Selectboard may take into consideration:

- (1) Number and types of complaints law enforcement received and/or investigated,
- (2) Citizen complaints;
- (3) Failure to correct or abate a violation that the Town is authorized to enforce, and
- (4) Failure to correct or abate any violation of this or State Medical Cannabis ordinances, rules, or regulations.

16. Operating Requirements and Performance Standards

In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Board of Selectmen that the following requirements will be met. A licensee shall comply with all of 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 medical cannabis establishments in other than the licensed premises.
- (2) All medical cannabis business locations must be approved by the Selectboard.
- (3) All medical cannabis stores shall be limited to the Commercial District on Route 1 from Birch Point Road to the Woolwich town line and in the Rural District on Gardiner Road beginning at the Foye Road/Gardiner Road Intersection and extending to the Dresden town line; cultivation, testing and manufacturing facilities shall be limited to the Rural District; cannabis stores, cannabis cultivation,

cannabis products manufacturing facilities and cannabis testing facilities are prohibited in the Village 1 and Village 2 Districts.

(4) Medical cannabis businesses may not be located on property within one thousand (1,000) feet of the property line of a pre-existing public or private school, pre-existing public or private pre-school or childcare facility, place of worship, a municipal “safe zone” per 30-A M.R.S. 9253, municipal ball field or the Town Hall. For purposes of this section, the term “school” means a “public school” as that term is defined in Title 20-A M.R.S. §1(24), as may be amended; a “private school” as that term is defined in Title 20-A M.R.S. 1(22), as may be amended; and/or a “public preschool program” as that term is defined in Title 20-A M.R. S. 1(23-A), as may be amended. The term “childcare facility” means a “childcare facility” as that term is defined in Title 22 M.R.S. §83011-A (IA) (B), as may be amended, and/or a “family childcare provider” as that term is defined in Title 22 M.R.S. 8301-A (I-A) (C), as may be amended.

(5) No medical cannabis business shall be located inside a building containing residential units, including transient housing such as lodging houses, group homes, hotels, motels, and boarding houses.

(6) Security.

(a) The licensed premises shall have lockable doors and windows and shall be served by an alarm system that includes automatic notification to the Wiscasset Police Department.

(b) 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 hours per day, seven days per week and video shall be retained for a minimum duration of thirty (30) days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.

(c) The licensed premises shall have exterior spot lights with motion sensors covering the full perimeter of the building(s).

(7) Ventilation.

(a) The licensed premises shall comply with all odor and air pollution standards established by ordinance.

(b) All medical cannabis establishments shall have an odor mitigation system installed that has been approved by a Maine licensed engineer, indicating that the system will provide odor control sufficient to ensure that no odors are perceptible off the premises.

(8) No visibility to public from exterior.

(a) Outdoor medical cannabis cultivation and/or outdoor storage of medical cannabis, medical cannabis products, or related supplies is prohibited.

(b) Medical cannabis, medical cannabis products, and related paraphernalia shall not be visible from outside the building in which the medical cannabis business is located.

(9) Signs. All signage must comply with Title 22 M.R.S. § 2429-B and the requirements of the Town's Sign Ordinance.

(10) Labeling. All product labeling must comply with Title 22 M.R.S. § 2429-A.

(11) Hours of Operation. Medical cannabis businesses must have fixed hours of operation during which they are open to members of the public over the age of 21. In no event may medical cannabis stores be open to the public earlier than 8 a.m. or later than 10 p.m.

(12) Loitering. The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It shall be the licensee's obligation to ensure that anyone found to be loitering or using cannabis or cannabis products in the parking lot or other outdoor areas of a licensed premises is ordered to leave.

(13) Compliance with requirements of state and local law. A medical cannabis establishment shall meet all operating and other requirements of state and local law. To the extent the state has adopted or adopts in the future any law or regulation governing medical cannabis establishments that conflicts in any way with the provisions of this article, the more restrictive shall control. A medical cannabis registration in good standing with the State of Maine shall be sufficient evidence of compliance with state law.

17. Term of License and Renewals

(1) The term of any license or permit shall end one year from the date of issuance.

(2) Renewals shall be subject to the same review standards as applied to the initial issuance of the license. However, renewals shall not require site plan review.

All applications and renewals shall require a public hearing and approval of the Selectboard. As part of the application/renewal process the Selectboard shall consider compliance from prior years and based upon that review, may add conditions to any future license to correct, abate or limit past problems.

Licenses shall be renewed by appropriate application and payment of fee within sixty (60) days prior to expiration date of license. Any person failing to renew any annual license required by the provisions of this ordinance within thirty (30) days after the expiration of renewal date and continuing to operate is in violation of this ordinance. Failure to renew any annual license required by the provisions of this ordinance within thirty (30) days after the expiration or renewal date will result in loss of said license.

18. Right of Access; Inspections

Every medical cannabis business shall allow law enforcement officers, Town Manager or any other town officers as authorized by the Selectboard, Code Enforcement Office, and/or Fire Department to enter the premises at reasonable times for the purpose of checking compliance with applicable state laws and local ordinances and regulations. All cannabis businesses shall be subject to mandatory annual inspections by the fire department and any designated town officers to ensure compliance. The Town Manager may perform inspections on a monthly basis at the discretion of the Selectboard, Code Enforcement Office, and/or Fire Department.

Medical cannabis businesses are responsible for providing any isolation/protective gear needed to allow inspectors to access any of the business' facilities. Failure to have such gear available is not a valid reason for refusing an inspection.

Refusing to allow an inspector to access any part of a cannabis business is a violation of this ordinance and is grounds for revocation of license.

19. Violation and Penalties

In addition to revocation or suspension of a medical cannabis establishment license as provided in this article, the violation of any provision of this article 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 shall constitute a separate offense. In addition to such penalty, the town may enjoin or abate any violation of this article. 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 Wiscasset Police Chief, the Wiscasset code enforcement officer, and/or their designees. Notice of violations by medical cannabis establishment licensees of other provisions of this Code shall be provided to the Police Chief, Town officers, and Town Attorney

20. Limitations in licenses.

There is no limitation on the number of licenses the Town may issue for registered caregiver retail stores, registered dispensaries, medical cannabis manufacturing facilities, or medical cannabis testing facilities.

21. License fees

The annual license fees shall be set by the Board of Selectmen.

22. Severability

If any section, phrase, sentence, or portion of this article 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 affect the validity of the remaining portions thereof.

23. Indemnification

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 medical cannabis business owners, operators, employees, clients, or customers for a violation of local, state, or federal laws, rules, or regulations.

By accepting a 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 or in any manner connected with the operation of a permitted/licensed medical cannabis business.

24. Appeal

An aggrieved party may appeal any final licensing, denial, suspension, or revocation decision of the Selectboard under this ordinance to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.