

# Limerick Medical Marijuana Business Licensing Ordinance

## 1. Title.

This Ordinance shall be known and may be cited as "Limerick Medical Marijuana Business Licensing Ordinance."

## 2. Purpose; authority; interpretation.

The purpose of this Ordinance is to provide for and regulate the issuance of local licenses for Caregiver Retail Stores and Registered Caregivers operating in a location other than that Registered Caregiver's principal residence, in the Town of Limerick. Such licensing shall provide for annual review of and reasonable control over Caregiver Retail Stores and Registered Caregivers' practices and to ensure that life safety and nuisance concerns are properly addressed.

This Ordinance is adopted pursuant to the Town of Limerick's home rule authority, under Art. VIII, Part Second of the Maine Constitution, and 30-A M.R.S. § 3001. This Ordinance is also adopted consistent with the Town's statutory authority pursuant to 22 M.R.S. § 2429-D, as may be amended or recodified.

This Ordinance does not authorize the operation of adult-use "marijuana establishments" as that term is defined in 28-B M.R.S. § 102(29), as may be amended or recodified. In addition, this Ordinance does not authorize the operation of medical marijuana "manufacturing facilities," medical "marijuana testing facilities," or medical marijuana "dispensaries," as those terms are defined in 22 M.R.S. §§ 2422(4-R), 2422(5-C), and 2422(6), respectively, as may be amended or recodified.

This Ordinance does not, and shall not be interpreted to limit the rights and privileges afforded by the Maine Medical Use of Marijuana Act, 22 M.R.S. § 2421, *et seq.*

## 3. Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated:

**Cardholder:** A "cardholder," as that term is defined in 22 M.R.S. § 2422(1), as may be amended or recodified.

**Caregiver Retail Store:** "Caregiver retail store," as that term is defined in 22 M.R.S. § 2422(1-F), as may be amended or recodified.

**Disqualifying Drug Offense:** "Disqualifying drug offense," as that term is defined in 22 M.R.S. § 2422(4), as may be amended or recodified.

**Licensed Premises.** The physical structure where a Medical Marijuana Business is licensed to operate, consistent with a Medical Marijuana Business License issued by the Code Enforcement

OfficerCode Enforcement Officer under this Ordinance.

**Medical Marijuana:** Marijuana possessed or used by a Cardholder for medical use, in accordance with 22 M.R.S. § 2423-A, as may be amended or recodified. For the avoidance of doubt, “medical marijuana” does not refer to marijuana possessed or used by an individual of at least 21 years of age for recreational purposes, as more particularly defined and permitted by Title 28-B of the Maine Revised Statutes, as may be amended or recodified.

**Medical Marijuana Business:** A Caregiver Retail Store, or a Registered Caregiver that operates in a location that is not that Registered Caregiver’s primary residence, or in the case of a Registered Caregiver that is a registered entity, the primary residence of any of that entity’s officers or managers. A Medical Marijuana Business does not include a medical marijuana “dispensary,” “manufacturing facility,” or “testing facility,” which are not authorized to operate in the Town of Limerick.

**Registered Caregiver:** A “registered caregiver,” as defined in 22 M.R.S. § 2422(11), as may be amended or recodified, that is required to register with the State of Maine Office of Marijuana Policy pursuant to 22 M.R.S. § 2425-A. For the avoidance of doubt, a “Registered Caregiver” does not include those categories of caregiver expressly exempted from state registration requirements, as more specifically listed in 22 M.R.S. § 2423-A(3)(C)(1) – (3), as may be amended or recodified.

**Registered Caregiver Cultivation Area:** An indoor area used by a Registered Caregiver for cultivation of medical marijuana that is enclosed and equipped with locks or other security devices that permits access only by a person authorized to have access to the area under Maine law. For the avoidance of doubt, the cultivation of marijuana outside of an enclosed, roofed space, is expressly prohibited.

#### 4. **Applicability and effect.**

Beginning on the effective date of this Ordinance, no Medical Marijuana Business may operate within the Town of Limerick without first receiving a Medical Marijuana Business License from the Code Enforcement Officer in a manner consistent with the procedures and requirements of this Ordinance.

#### 5. **Effective date; initial licensing application deadline.**

This Ordinance shall be effective upon adoption by Town Meeting. All Medical Marijuana Businesses operating within the Town of Limerick on the Effective Date shall submit licensing applications to the Code Enforcement Officer within ninety (90) days of the Effective Date. Failure to do so shall subject a Registered Caregiver or other owner or operator of a Medical Marijuana Business to enforcement action, and potential civil penalties, as detailed in Section 12 of this Ordinance.

#### 6. **License required; application procedure.**

A. The operation or performance of conduct consistent with a Medical Marijuana Business without first receiving a Medical Marijuana Business License from the Code Enforcement Officer shall be considered a violation of this Ordinance, subjecting the violating party to civil fines and

other penalties as further outlined herein.

B. The Code Enforcement Officer shall be empowered to issue licenses to individuals and entities to operate a Medical Marijuana Business in the Town of Limerick. Medical Marijuana Business Licenses issued under this Ordinance shall be reviewed and approved, approved with conditions, or denied at a Code Enforcement Officer meeting to be held following public notice and public hearing.

C. Each applicant for a new or renewal Medical Marijuana Business License shall complete and file an application on a form prescribed by the Town, together with a Three Thousand Dollar (\$3,000) non-refundable application fee, in addition to any additional annual license fees set out in the Town's Fee Schedule. Such application shall contain the following:

- (1) Evidence of state registration and other approvals (if any) required to operate as a Registered Caregiver, including but not limited to the Registered Caregiver's caregiver registration card.
- (2) A description of the form of ownership of the business enterprise (if applicable) together with the 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 Marijuana Business.
- (3) 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.
- (4) Evidence of all land use approvals or conditional land use approvals required to operate a Medical Marijuana Business pursuant to the Town of Limerick Land Use Ordinance, including but not limited to, a building permit, and/or a certificate of occupancy.
- (5) If the proposed Licensed Premises is not owned by the applicant, then a signed letter of approval from the proposed Licensed Premises' owner shall be provided.
- (6) A detailed depiction of the proposed Licensed Premises.
- (7) All other information necessary for the Applicant to demonstrate compliance with all performance standards imposed by Section 8 of this Ordinance, including but not limited to documentation and other supporting information regarding: (i) access to the proposed Licensed Premises, (ii) safety and security of the proposed Licensed Premises, (iii) a ventilation plan for the proposed Licensed Premises, (iv) a waste disposal plan for the Licensed Premises, (v) certificates of insurance demonstrating coverage and terms consistent with the requirements of this Ordinance, and (vi) an operations plan for the proposed Licensed Premises.

D. Medical Marijuana Business License applicants submitting applications and supporting information that is confidential under 22 M.R.S. § 2425-A(12), as may be amended or recodified, and the Maine Freedom of Access Act, 1 M.R.S. § 403(3)(F), as may be amended, shall mark such information as confidential. An individual who possesses a valid State medical marijuana registered

caregiver registration card need not identify themselves in an application for a Medical Marijuana Business License under this Ordinance. The Cardholder must, however, identify themselves and provide all relevant application materials to the Code Enforcement Officer 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 that the application is submitted, the Cardholder may appoint a representative to appear before the Code Enforcement Officer on their behalf. Advertisements for the requisite public hearing shall contain the location of the proposed Licensed Premises and the identity of the owner of the real estate and the identity of the designated representative.

E. A licensee has the duty to maintain all information submitted as part of an application for a license issued under this Ordinance updated and accurate and shall report all such changes to the Code Enforcement Officer within ten (10) days of any change in status. Failure to keep such information current and accurate shall be grounds for the suspension or revocation of a license pursuant to Section 10 of this Ordinance.

#### 7. Granting license; term; renewal.

A.

D. A Medical Marijuana Business License shall be valid for a period of one (1) year from date of issuance and must be renewed annually.

E. Applications for renewal of existing Medical Marijuana Business Licenses shall include all materials required by Section 6(C) of this Ordinance, and shall be processed in the same manner as initial licenses and shall be subject to all provisions of this Ordinance. Applications for the renewal of a Medical Marijuana Business License shall be submitted to the Code Enforcement Officer at least sixty (60) days prior to the expiration of the existing license and shall be considered by the Code Enforcement Officer in the manner prescribed for initial license applications in this Section. In considering applications for renewal of existing Medical Marijuana Business Licenses, the Code Enforcement Officer shall also consider any and all fire, EMS, and/or police reports, as well as all code enforcement complaints and notices of violation (if any), related to the Licensed Premises created during the previous licensing term.

#### 8. License performance standards.

No Medical Marijuana Business License may be granted or renewed by the Code Enforcement Officer and no Medical Marijuana Business may operate, even after issuance of a Medical Marijuana Business License, except in compliance with the performance standards contained in this Section. Such performance standards shall automatically be incorporated into all Medical Marijuana Business Licenses granted by the Code Enforcement Officer as conditions of approval:

A. Access. Convenient and safe access for the ingress and egress of pedestrian and vehicular traffic exists.

B. Traffic. The establishment of a Medical Marijuana Business will not create an unreasonable increase in the frequency or intensity of vehicle traffic in proximity to the Licensed Premises.

C. Location. No Medical Marijuana Business may operate in a location that is less than 500 feet from the property line of a pre-existing public or private school serving grades Pre-K through 12<sup>th</sup> grade, or a day care center licensed by the State of Maine.

D. Safety.

(1) Where an electrical system is installed within the Licensed Premises, it shall be installed and maintained in accordance with the provisions of the applicable state standards and regulations and the Town's electrical codes.

(2) The Licensed Premises shall be maintained and used in a manner as to prevent fire and in accordance with the applicable local fire prevention regulations.

(3) Internal and external foot traffic and security control shall meet requirements of the applicable state and local law enforcement agencies.

(4) The Town of Limerick Fire Chief has determined that adequate public safety protection equipment is available to provide service to the Licensed Premises.

(5) A Knox Box shall be installed on the Licensed Premises to enable emergency access by the Limerick Fire Department.

E. Noise. No amplification of sound shall occur on or from the Licensed Premises as measured by a sound-level meter and frequency-weighting network (manufactured according to the standards prescribed by the American National Standards Institute), inherently and recurrently generated, shall not exceed a maximum of 60 decibels, as detected at any lot line of the Licensed Premises.

F. Permanent Location; No Drive-Thrus; Hours of Operation. All Medical Marijuana Businesses shall be operated from permanent locations, which may take online or telephone orders so long as the purchaser picks up any and all medical marijuana at the Licensed Premises. No drive-thru services or delivery windows are permitted. No Medical Marijuana Business may operate outside of the hours of 8:00 AM and 10:00 PM.

G. Number of plants; Location of Cultivation Area. No more than thirty (30) mature marijuana plants, or 500 square feet of plant canopy, and sixty (60) immature plants, may be cultivated on a Licensed Premises.

H. Ventilation. All Medical Marijuana Businesses shall have an odor mitigation system installed within the Licensed Premises, the design of which has been approved by a Maine licensed engineer. The odor control system installed shall be sufficient to ensure that no odors will be perceptible from any adjoining property line of the Licensed Premises.

I. Waste disposal. Any marijuana waste generated on the Licensed Premises must be disposed of in a manner consistent with all rules established by the Maine Office of Cannabis Policy, as the same may be amended from time to time. The Licensed Premises shall not dispose of waste and/or residue from the growth, cultivation, processing, and storage of medical marijuana in an unsecured waste receptacle not in its possession and control.

J. Loitering. The Medical Marijuana Business shall make adequate provisions to prevent Cardholders or other persons from loitering on the Licensed Premises. It shall be the Licensee's obligation to ensure that anyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of the Licensed Premises is ordered to leave.

K. Security. The Licensed Premises must meet the following security requirements:

(1) The Licensed Premises shall have lockable doors and windows and shall be served by an alarm system that includes both an audible alarm and a police department notification component. Said alarm systems must also be professionally monitored, and maintained in good working condition.

(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 thirty (30) days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.

(3) The Licensed Premises shall include a permanently affixed locking safe that is suitable for the storage of all marijuana and all cash stored on the Licensed Premises.

(4) The Licensed Premises shall maintain exterior lighting that illuminates the exterior walls from dusk until dawn and that is controlled by motion detectors.

(5) The Licensed Premises shall use reasonable methods to ensure that no person under the age of twenty-one (21) years old has access to marijuana or marijuana products.

L. Insurance; indemnification.

(1) Each Licensee shall procure and maintain occurrence-based commercial general liability insurance coverage in the minimum amount of \$1,000,000 per occurrence / \$2,000,000 aggregate for bodily injury, death, and property damage. Such coverage shall not include any bodily injury or property damage restrictions or exclusions associated with cultivation or sale of medical marijuana.

(2) Evidence of insurance required herein shall be a condition of the issuance of any Medical Marijuana Business License under this Ordinance, and shall be submitted to the Town as part of the applicant's license application. Certificates shall guarantee ten days' notice to the Town of termination of insurance or any material change from the insurance provider or agent. The Town's acceptance or lack of such evidence shall not be construed as a waiver of the applicant's obligation to obtain and maintain such insurance as required by this Ordinance.

(3) By accepting a Medical Marijuana Business License from the Town, the Licensee knowingly and voluntarily waives, releases, and discharges the Town from all claims, causes of action and demands, both known and unknown, which it has ever had, or may have against the Town, officers, agents, employees, representatives, insurers, successors, and

## **11. Appeals.**

Any appeal of a decision of the Code Enforcement Officer to grant, grant with conditions, deny, suspend, or revoke a Medical Marijuana Business License pursuant to this Ordinance, shall be to Maine Superior Court within thirty (30) days of the date of the decision, in a manner consistent with Rule 80B of the Maine Rules of Civil Procedure.

## **12. Violations and penalties.**

The Town of Limerick shall enforce this Ordinance through its Code Enforcement Officer. In addition to revocation and/or suspension of a Medical Marijuana Business License as provided in this Ordinance, any violations of this Ordinance shall be subject to a minimum fine of \$100.00 per day and a maximum fine of \$2,500.00 per day, pursuant to 30-A M.R.S. § 4452. Each day that a violation remains constitutes a separate violation. The Code Enforcement Officer, or its authorized agent, is authorized to initiate legal proceedings in Maine District Court to enjoin the unlawful operation of a Medical Marijuana Business, as provided in this Ordinance. If the Town is the prevailing party in such proceedings, the Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

## **13. Transfer of license.**

A Medical Marijuana Business License may not be assigned or transferred to another person or entity. Any change in ownership or change in officers of the licensee requires a new license. The new owners of any Medical Marijuana Business, as defined in this Ordinance, shall apply to the Code Enforcement Officer for a new license prior to beginning operation. Medical Marijuana Business Licenses are limited to the premises for which they are issued and are not transferable to any other property. All Licensees who desire to relocate to a new location shall apply to the Code Enforcement Officer or its designee for a new license and if approved they shall relinquish their permit/license from the previous location.

## **14. Validity and severability.**

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

assigns for any injuries, damages or liabilities, resulting from the arrest, prosecution or other consequence of the Medical Marijuana Business or its parties of control for a violation of local, state or federal laws, rules or regulations.

M. One Medical Marijuana Business Per Licensed Premises. In spite of any language to the contrary and for the avoidance of doubt, only one (1) Medical Marijuana Business License may be granted for each Licensed Premises. As such, only one (1) Registered Caregiver may operate consistent with a Medical Marijuana Business License granted under this Ordinance, on a single parcel of property, as more particularly shown on the Tax Maps of the Town of Limerick.

## 9. Inspections.

A Licensee and its agents and employees shall, at any reasonable time, permit inspection of the Licensed Premises by the Town, including but not limited to the Fire Chief and Code Enforcement Officer, if necessary to ensure compliance with the provisions of this Ordinance or any other applicable portion of local ordinance or state law.

## 10. Decision on licensing application; revocation of license.

A. Any applicant requesting a Medical Marijuana Business License from the Code Enforcement Officer shall be notified in writing of the Code Enforcement Officer's decision no more than fourteen (14) calendar days from the date of the Code Enforcement Officer's decision. In the event that a license application is denied, or is granted with conditions, the applicant shall be provided with the reasons for the denial or the conditional grant in writing. The applicant may not reapply within thirty (30) days after an application for a license that has been denied.

B. The Code Enforcement Officer may, after notice and hearing, suspend or revoke a Medical Marijuana Business License issued under this Ordinance if the Licensee, or any of the Licensee's officers, members, directors, or partners:

- (1) Fails to maintain compliance with all requirements of this Ordinance, or with any applicable provision of state law or administrative regulation, including but not limited to 22 M.R.S. § 2421, *et seq.*, as may be amended or recodified;
- (2) Has not acquired and maintained all necessary State of Maine and local approvals prior to and during the term of the License;
- (3) Has been convicted of a Disqualifying Drug Offense;
- (4) Has had a license issued under this Ordinance, or any other applicable state or local approval revoked;
- (5) Has provided false or misleading information in connection with the license application; or
- (6) Has, after receiving written notice and demand, refused to allow the Licensed Premises to be inspected for compliance with this Ordinance, or has otherwise interfered with a Town officer, official, or employee's performance of their official duties.



I hereby certify that the foregoing is a true abstract or copy of a record which is in my official custody.

Date Accepted: June 13, 2023

Attest: Deedee Tibbets,

Municipal Clerk, Town of Limerick, Maine

Date Attest: June 14, 2023