**MEDICAL MARIJUANA RETAIL STORE ORDINANCE**

**1. PURPOSE.**

 The purpose of this Ordinance is to provide for and regulate the issuance of Local Licenses for Medical Marijuana Retail Stores as defined in this Ordinance and by the State of Maine under the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended. This Ordinance shall be known and cited as the “Town of Newry Medical Marijuana Retail Store Ordinance.”

**2. AUTHORITY.**

 This Ordinance is adopted pursuant to the authority granted by 22 M.R.S.A. § 2421 *et. seq*., as may be amended.

**3. DEFINITIONS.**

As used in this Ordinance, the following words and phrases shall have the meanings ascribed to them in this Section.

 *Applicant* shall mean a person that has submitted an application for licensure as a Medical Marijuana Retail Store pursuant to this Ordinance.

 *Licensed Premises* shall mean the premises specified in an application for a State or Local License pursuant to this Ordinance that are owned or in the possession of the Licensee and within which the Licensee is authorized to sell medical marijuana and/or medical marijuana products in accordance with the provisions of this Section and the requirements of State law and regulations.

 *Licensee* shall mean a person licensed pursuant to this Ordinance.

 *Local License* shall mean any license required by and issued under the provisions of this Ordinance.

 *Local Licensing Authority* shall mean the Board of Selectmen of the Town of Newry.

 *Marijuana* shall mean “marijuana” as that term is defined in 28-B M.R.S.A. §102(27), as may be amended.

 *Medical Marijuana* shall mean the medical use of marijuana, with the term “medical use” as defined in 22 M.R.S.A. §2422(5), as may be amended.

 *Medical Marijuana Caregiver* shall mean a “caregiver” as that term is defined in 22 M.R.S.A. §2422(8-A), as may be amended.

 *Medical Marijuana Qualifying Patient* shall mean a “qualifying patient” as that term is defined in 22 M.R.S.A. §2422(9), as may be amended.

 *Medical Marijuana Registered Caregiver* shall mean a “registered caregiver” as that term is defined in 22 M.R.S.A. §2422(11), as may be amended.

 *Medical Marijuana Retail Store* shall mean a “caregiver retail store” as that term is defined in 22 M.R.S.A. §2422(1-F), as may be amended. Two or more Medical Marijuana Registered Caregivers are prohibited from forming, owning or operating a Medical Marijuana Retail Store as a single Medical Marijuana Retail Store.

 *Ordinance* shall mean this Town of Newry Medical Marijuana Retail Store Ordinance.

 *Owner* shall mean a person whose beneficial interest in a Medical Marijuana Retail Store is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Medical Marijuana Retail Store and has a controlling interest in a Medical Marijuana Retail Store.

 *Person* shall mean a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not include any governmental organization.

 *State License* shall mean any license, registration or certification issued by the State Licensing Authority.

 *State Licensing Application* shall mean the application form and supporting materials required by the State for the purpose of a person obtaining a State license, registration or certification for sale of medical marijuana and/or medical marijuana products in this State.

 *State Licensing Authority* shall mean the authority (or authorities) created by the State for the purpose of regulating and controlling the licensing of the sale of medical marijuana and/or medical marijuana products in this State.

 *UDRO* shall mean the Unified Development Review Ordinance for the Town of Newry, Maine, as may be amended.

**4. MEDICAL MARIJUANA RETAIL STORES.**

 Medical Marijuana Retail Stores shall be considered a “Retail Business” under the URDO subject to the requirements and restrictions of the UDRO, this Ordinance and State law and regulations.

**5. PROHIBITED ACTIVITIES.**

a. No Medical Marijuana Retail Store shall be established or operated within the Town without first receiving and then maintaining all required State and municipal approvals.

 b. No Medical Marijuana Retail Store shall conduct any activity for which it has not received the required State License and Local License.

 c. A Medical Marijuana Retail Store may not be operated on property located within 1000 feet of the property line of a preexisting public or preexisting private school (K-12)

**6. LICENSE REQUIRED.**

A Medical Marijuana Retail Store shall not operate until it is licensed, registered or certified, as applicable, by the State Licensing Authority pursuant to the requirements of 28-B M.R.S.A. Chapter 558-C, as may be amended and is issued a Local License under the provisions of this Ordinance.

**7. LICENSING PROCEDURE.**

a. The initial application for a Local License shall be processed by the Town Clerk but reviewed and approved by the Local Licensing Authority. Application shall be made on a form prepared by the Town and must include all information required by Section 9 of this Ordinance and by the form.

 b. A public hearing on an application for a Local License shall be scheduled after receipt of a completed application pursuant to Section 9 of this Ordinance. The Town Clerk shall post and publish public notice of the date, time and place of the hearing not less than seven (7) days prior to the hearing; notice shall be published in a newspaper of general circulation in Oxford County.

 c. A Local License renewal application shall be subject to the same review standards as apply to the initial issuance of the license and the same notice requirements as a new application. As part of the renewal process, the Local Licensing Authority 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. In the event that the Local Licensing Authority determines that a hearing on a renewal application is necessary and appropriate, the Local Licensing Authority may elect to defer action on a renewal application until after it conducts a public hearing.

 d. The Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance. The Town Clerk may consult with other Town departments and any appropriate State Licensing Authority as part of the initial investigation.

 e. The Local Licensing Authority shall have the authority to impose any conditions on a license that may be necessary to insure compliance with UDRO and this Ordinance or to address concerns about the operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.

 f. No Local License shall be granted by the Local Licensing Authority until the Law Enforcement Chief Officer and, if applicable, the Code Enforcement Officer, have all made a positive recommendation upon the Applicant’s ability to comply with this Ordinance. Whenever inspections of operation of a licensed business are provided for or required by ordinance or State law, or reasonably necessary to secure compliance with any ordinance or State law, it shall be the duty of the Applicant or Licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the Town authorized to make the inspection at any reasonable time that admission is requested.

 g. Medical Marijuana Registered Caregivers and other Applicants submitting applications and supporting information that is confidential under 22 M.R.S.A. §2425-A(12), as may be amended, and the Maine Freedom of Access Act, 1 M.R.S.A. §403(3)(F), as may be amended, shall mark such information as confidential.

**8. LICENSE FEES.**

Fees for a Local License shall be established by order of the Board of Selectmen and shall be paid annually by the Licensee prior to initial issuance or subsequent renewal of a Local License.

**9. APPLICATION.**

 a. Each Applicant for a Local License shall complete and file an application on a form prescribed by the Board of Selectmen, together with a license fee as required by Section 8 above and with the following submissions:

 1. A copy of the Applicant’s State License Application and supporting documentation as filed with the State Licensing Authority, and any amendments thereto.

 2. Evidence of all State approvals or conditional approvals required to operate a Medical Marijuana Retail Store and a State retail certificate, if required.

3. If not included in the Applicant’s State License Application, attested copies of the articles of incorporation and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.

 4. If not included in the Applicant’s State License Application, 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.

 5. Evidence of all land use approvals or conditional land use approvals required to operate a Medical Marijuana Retail Store pursuant to the Ordinance, including, but not limited to, a building permit, special exception approval, site plan approval, or change of use permit.

 6. Evidence of all other local approvals or conditional approvals required to operate a Medical Marijuana Retail Store pursuant to the Ordinance.

 7. A description of the premises for which the Local License is sought, including a floor plan of the premises showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage.

 8. A copy of the Applicant’s security plan and operations manual.

 b. In the event that the Town Clerk determines that a submitted application is not complete, the Town Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

**10. LICENSE EXPIRATION AND RENEWAL.**

a. Each Local License issued shall be effective for one year from the date of issuance.

 b. Renewal applications must be submitted prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.

**11. DENIAL, SUSPENSION OR REVOCATION OF LICENSE.**

a. A Local License under this Ordinance shall be denied to the following persons:

 1. A person who fails to meet the requirements of this Ordinance. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.

 2. A person who has had a license related to Marijuana revoked by the Town or by the State.

 3. An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.

 b. The Local Licensing Authority may suspend or revoke a license for any violation of the UDRO, this Ordinance or any other applicable building and life safety code requirements, and may suspend or revoke a license if the Licensee has a State License related to Marijuana suspended or revoked by the State. The Licensee shall be entitled to seven (7) days written notice and a hearing prior to any suspension or revocation.

**12. OPERATING REQUIREMENTS.**

 The Licensee shall comply with all of the following requirements during the term of the Local License:

 a. The current Local License shall be displayed at all times in a conspicuous location within the Licensed Premises.

 b. All Licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate a Medical Marijuana Retail Store in temporary or mobile locations.

 c. A Medical Marijuana Retail Store shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing Medical Marijuana Retail Stores, the stricter law or regulation shall control

**13. CHANGE OF OWNERSHIP OR LOCATION.**

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership or ownership interests or change in the officers, members or directors of an owner 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.

**14. DECISION, APPEALS.**

 a. Decision. The Local Licensing Authority shall, when issuing a Local License hereunder, also make written findings of fact and conclusions of law in support of approval, conditional approval, or denial of an application.

b. Appeals. Any appeal of a decision of the Local Licensing Authority under the Ordinance shall be to the Maine Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

**15. VIOLATIONS AND PENALTIES.**

The operation of any Medical Marijuana Retail Store without the required Local License or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. Violations shall be subject to a minimum civil penalty of $100 and a maximum civil penalty of $500. Each day a violation continues shall be a separate offense. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of Section 11 of this Ordinance. In any court action, the Town may seek injunctive relief in addition to penalties. The Town shall be entitled to recover its costs of enforcement, including its attorney’s fees and costs.

**16. SEVERABILITY.**

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

**17. OTHER LAWS.**

 Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended. In the event of a conflict between the provisions of this Ordinance and the provisions of the Maine Medical Use of Marijuana Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

**18. EFFECTIVE DATE.**

 This Ordinance shall take effect upon enactment by Town Meeting. Adopted on November 5, 2019 by Town Meeting