

TOWN OF ST. ALBANS, ME

Medical Cannabis Registered Caregiver Permitting Ordinance

Section 1. Authority.

This Ordinance is enacted pursuant to Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2, and 30-A M.R.S.A. § 3001. This Ordinance is also enacted consistent with the Town's statutory authority pursuant to 22 M.R.S. § 2429-D, as may be amended or recodified.

Section 2. Purpose; Interpretation

To provide for and regulate the issuance of local Permits for Registered Caregivers in the Town of St. Albans. Such permitting shall provide for annual review of and reasonable control over Registered Caregivers' operations and to ensure that life, safety and nuisance concerns are properly addressed.

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

Section 3. Effective Date.

This Ordinance shall take effect immediately upon its adoption ("Effective Date"). Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Ordinance shall apply to all Registered Caregivers within the Town of St. Albans as of [*insert Adoption Date*].

Section 4. Definitions.

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

Permit. An annual certification by the St. Albans Board of Selectmen.

Permitted Premises. The parcel of property, i.e., a Lot on the Tax Maps of the Town of St. Albans, where a Registered Caregiver is permitted to operate, consistent with a Registered Caregiver Permit issued pursuant to this Ordinance.

NFPA 13. "NFPA 13" shall mean the most recent edition of the National Fire Protection Association Standard for the Installation of Sprinkler Systems, as adopted by the State of Maine.

NFPA 13D. "NFPA 13D" shall mean the most recent edition of the National Fire Protection Association Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes).

Registered Caregiver. A “registered caregiver,” as defined in 22 M.R.S. §2421-A(40), and as may be amended or recodified, that is required to register with the State of Maine Office of Cannabis Policy pursuant to 22 M.R.S. § 2425-A.

Qualifying Patient. A “qualifying patient,” as defined in 22 M.R.S. § 2421-A(39), and as may be amended or recodified.

Registered Caregiver Cultivation Area. An indoor area enclosed by walls and a roof, including but not limited to a greenhouse, used by a Registered Caregiver for cultivation of medical cannabis that is equipped with locks or other security devices that permits access only by a person authorized to have access to the area under Maine law.

Certificate of Occupancy. Annual certificate granted by the St. Albans Code Enforcement Officer stating a premises meets all standards in accordance with Town codes and regulations, as well as the requirements associated with the Medical Cannabis Registered Caregiver Permitting Ordinance.

Section 5. Establishments allowed; Permit required.

Pursuant to 22 M.R.S. § 2429-D, the operation of Registered Caregivers is allowed, subject to the restrictions of this Ordinance and applicable State and local law. No person shall operate as a Registered Caregiver, nor shall any property owner permit the use of their premises to be operated as a Registered Caregiver, without a valid permit issued by the Town. A separate permit must be obtained for each Registered Caregiver located on the same premises.

5.1 Permit requirement. As of the Effective Date, a Registered Caregiver shall not begin, or continue operations, without first receiving a Permit from the Board of Selectmen in a manner consistent with the procedures and requirements of this Ordinance. The permitting requirement shall not be construed or applied to prohibit the operation of Registered Caregivers continuously operating before the implementation of this Ordinance. However, as of the enactment of this Ordinance, all such Registered Caregivers must comply with all requirements set forth in this Ordinance. Registered Caregivers operating prior to the enactment of this Ordinance will not be penalized nor required to pay additional fees for the operations conducted prior to the enactment of this ordinance.

5.2 Initial permitting application deadline. All Registered Caregivers operating within the Town of St. Albans on the Effective Date shall complete and file an application on the form prescribed by the Board of Selectmen to the Town Clerk within ninety (90) days of the Effective Date. Failure to do so shall subject a Registered Caregiver to enforcement action, and potential civil penalties, as detailed in Section 11 of this Ordinance.

5.3 Validity. Each Permit is valid for a period of one (1) year from the date of issuance by the Board of Selectmen. A Permit must be obtained prior to commencing or continuing operation of a Registered Caregiver. Applications for renewal Permits shall be submitted at least ninety (90) days prior to expiration of the existing permit. Any Permittee that fails to submit a renewal application by the applicable deadline shall not have authority to operate until a Permit is granted.

Section 6. Permit application; procedures and requirements.

6.1 The operation or performance of conduct consistent with a Registered Caregiver without first receiving a Registered Caregiver Permit from the Board of Selectmen shall be considered a violation of this Ordinance, subjecting the violating party to civil fines and other penalties as further outlined herein.

6.2. The Board of Selectmen shall be empowered to issue Permits to individuals to operate as Registered Caregivers in the Town of St. Albans. Registered Caregiver Permits issued under this Ordinance shall be reviewed and approved, approved with conditions, or denied at a Board of Selectmen's meeting to be held following public notice and public hearing.

6.3 Each applicant for a new or renewed Registered Caregiver Permit shall complete and file an application on a form prescribed by the Board of Selectmen. Applications for new Registered Caregiver Permits shall be accompanied by a Two Thousand Dollar (\$2,000) non-refundable application fee. Applications for renewal of previously-granted Registered Caregiver Permits shall be accompanied by a One Thousand Dollar (\$1,000) non-refundable application fee. Such applications shall contain the following:

- 6.3.1 Evidence of a state registration and other approvals, if any, required to operate as a Registered Caregiver, including but not limited to the Registered Caregivers caregiver registration card issued by the Maine Office of Cannabis Policy.
- 6.3.2 A description of the form of ownership of the business enterprise 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 Registered Caregiver operation.
- 6.3.3 An affidavit that identifies all owners, officers, members, managers, or partners of the application, their ownership interests and their places of residence at the time of the application and for the immediately preceding three (3) years.
- 6.3.4 Evidence of all land use approvals or conditional land use approvals required to operate a Registered Caregiver operation pursuant to local land use ordinances, including but not limited to, a building permit, site plan approval and/or a certificate of occupancy.
- 6.3.5 If the proposed Permitted Premises is not owned by the applicant, then a signed letter of approval from the proposed Permitted Premises' owner shall be provided.
- 6.3.6 A detailed depiction of the proposed Permitted Premises, including a detailed plan sketch with dimensions of the premises and lot, as well as location of all chemical use and storage areas.
- 6.3.7 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 Permitted Premises; (ii) safety and security of the proposed Permitted Premises; (iii) a ventilation plan for the proposed Permitted Premises; (iv) a waste disposal plan for the

Permitted Premises, (v) certificates of insurance demonstrating coverage and terms consistent with the requirements of this Ordinance and (vi) an operations plan for the proposed Permitted Premises.

- 6.3.8 Thirty (30) days prior to submitting an application for Permitted Premises, the applicant for a proposed Permitted Premises shall notify, by certified mail return receipt required, all abutters within 500' to the proposed Permitted Premises that an application for a Permitted Premises will be submitted to the Board of Selectmen. Notice must specify the location of the Permitted Premises.

6.4 Registered Caregiver Permit applicants submitting applications and supporting information that is confidential under 22 M.R.S. § 2425-A(14), 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 cannabis registered caregiver registration card need not identify themselves in an application for a Registered Caregiver Permit under this Ordinance. The cardholder must, however, identify themselves and provide all relevant application materials to the Town Clerk for examination, but the identity of the cardholder shall not be 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 the application is submitted, the cardholder may appoint a representative to appear before the Board of Selectmen on their behalf. Advertisements for the requisite public hearing shall contain the location of the proposed Permitted Premises and the identity of the owner of the real estate and the identity of the designated representative.

6.5. The Board of Selectmen may only issue one (1) Registered Caregiver Permit to a single business, individual or owner. For purposes of this restriction, a "business" or "owner" shall include a separate business entity where the majority of ownership interests are held by the same individual(s) or entity/entities.

Section 7. Public hearing; granting Permit; term; renewal.

7.1. The Board of Selectmen shall schedule a public hearing within sixty (60) days of receipt of a completed permitting application, as determined by the Town Clerk. At such a public hearing, the testimony of the applicant and that of any interested members of the public shall be taken.

7.2. Property owners whose property line is within 500 feet of the proposed Permitted Premises shall be notified in writing by the applicant of the scheduled public hearing for the initial permitting application and all subsequent permitting renewals sought. Notification of the public hearing date, time and location shall be delivered by the United States Postal Service with return receipt. Receipt of notification to be furnished to the Town Clerk thirty (30) days prior to scheduled public hearing.

7.3 Following a public hearing, the Board of Selectmen shall consider the application and determine whether the application is consistent with all provisions of this Ordinance, as well as all other Town ordinances. In line with this determination, applications for permitting shall be granted, granted with conditions, or denied by the Board of Selectmen. Conditions may be imposed on any Registered Caregiver Permit issued pursuant to this Ordinance as necessary to protect the health, safety and welfare of the public and to achieve the goals and objectives of this Ordinance.

7.4 A Registered Caregiver Permit shall be valid for a period of one (1) year from the date of issuance and must be renewed annually.

7.5 Applications for renewal of existing Registered Caregiver Permits shall include all materials required by Section 6 of this Ordinance, and shall be processed in the same manner as initial Permits and shall be subject to all provisions of this Ordinance. Applications for the renewal of a Registered Caregiver Permit shall be submitted to the Town Clerk at least sixty (90) days prior to the expiration of the existing Permit and shall be considered by the Board of Selectmen in the manner prescribed for initial Permit applications in this Section. In considering applications for renewal of existing Registered Caregiver Permits, the Board of Selectmen 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 Permitted Premises created during the previous permitting term, as provided by the applicant.

Section 8 Permit performance standards.

No Registered Caregiver Permit may be granted or renewed by the Board of Selectmen and no Registered Caregiver may operate, even after issuance of a Registered Caregiver Permit, except in compliance with the performance standards contained in this Section. Such performance standards shall automatically be incorporated into all Registered Caregiver Permits granted by the Board of Selectmen as conditions of approval.

8.1 Access. Convenient and safe access for the ingress and egress of pedestrian and vehicular traffic exist.

8.2 Traffic. The establishment of a Registered Caregiver operation will not create an unreasonable increase in the frequency or intensity of vehicle traffic in proximity to the Permitted Premises.

8.3 Location. No Registered Caregiver 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 12th grade, or day care Permitted by the State of Maine.

8.4 Safety.

- 8.4.1 A letter from a Master Electrician licensed in the State of Maine certifying the compliance of the electrical system installation within the Permitted Premise with the provisions of the applicable national standards and state electrical code regulation. The electrical system shall be installed and maintained in accordance with the provisions of the applicable national standards and state electrical code regulations.
- 8.4.2 The Permitted Premises shall be maintained and used in a manner as to prevent fire and in accordance with the applicable state fire safety and fire prevention regulations as determined by the Fire Chief or his or her designee.
- 8.4.3 The St. Albans Fire Department and the Somerset County Sheriff's Office have determined that adequate public safety protection equipment is available to provide service to the Permitted Premises.
- 8.4.4 The Permitted Premises shall meet the requirements of NFPA 13 or 13D standards, as verified by the State Fire Marshal. All applications for a Permit shall include detailed plans and specifications for the automatic sprinkler system, prepared by a licensed professional fire protection engineer or other qualified professional as required by state law. The plans and specifications shall demonstrate compliance with NFPA 13,

including but not limited to system design, installation, water supply, and testing requirements.

- 8.4.5 Notwithstanding any provisions in NFPA 13 or NFPA 13D, any sprinkler system required under this ordinance shall be required to be inspected annually by a qualified, Maine-licensed sprinkler technician. A written report of the technician's inspection must be submitted to the Fire Chief within 5 (five) business days of the inspection
- 8.4.6 Notwithstanding any provisions in NFPA 13 or NFPA 13D, if a sprinkler system required under this ordinance becomes non-operational or is taken out of service for more than 4 (four) hours, the Registered Caregiver or his or her designee, shall notify the Fire Chief or the Code Enforcement Officer as soon as reasonably practicable.
- 8.4.7 For this section, a hazardous material is defined as any substance for which a Safety Data Sheet exists. Any hazardous material used in any part of the process of cultivation at the Permitted Premises shall be required to follow the requirements provided in the hazardous materials Safety Data Sheet. This includes, but is not limited to: the use, storage, and disposal of the hazardous material(s). Additionally, a list of all hazardous material(s), their location on the Permitted Premises, and their quantities shall be provided to the Fire Chief before they are used or stored on the Permitted Premises and updated annually.
- 8.4.8 Internal and external foot traffic and security control shall meet requirements of the applicable state and local law enforcement agencies.

8.5 Noise. No sound shall emanate from the Permitted 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, exceeding a maximum of 60 decibels, as detected at any lot line of the Permitted Premises.

8.6 Number of plants; Location of Cultivation Area. A Permittee may not possess or cultivate more than thirty (30) mature cannabis plants, or 500 square feet of plant canopy, and sixty (60) immature plants on a Permitted Premises. All cannabis must be cultivated in an indoor Registered Caregiver Cultivation Area, as that term is defined in this Ordinance. No outdoor cultivation or storage of cannabis is allowed.

8.7 Cannabis cultivation by a Registered Caregiver is prohibited where any portion of the Permitted Premises lies within the Shoreland Zone.

8.8 Ventilation. All Registered Caregivers shall have an odor mitigation system installed within the Permitted Premises, the design of which has been approved by a Maine licensed engineer. The odor control system installed shall be operating and maintained to ensure that no odors will be perceptible from any adjoining property line of the Permitted Premises.

8.9 Waste Disposal. Any cannabis waste generated on the Permitted 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 Permitted Premises shall not dispose of waste and/or residue from the growth, cultivation, processing, and storage of medical cannabis in an unsecured waste receptacle not under their possession and control.

8.10 Loitering. The Registered Caregiver shall make adequate provisions to prevent Qualifying Patients or other persons from loitering on the Permitted Premises. It shall be the Permitter's obligation to ensure that anyone found to be loitering or using cannabis in the parking lot or other outdoor areas of the Permitted Premises is ordered to leave.

8.11 Security. The Permitted Premises must meet the following security requirements:

8.11.1 The Permitted Premises shall have lockable doors and windows and shall be served by an alarm system that includes both an audible alarm and a Sheriff Department notification component. Said alarm system must also be professionally monitored, and maintained in good working order.

8.11.2 The Permitted 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.

8.12 Insurance; indemnification

8.12.1 Each Permittee 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 cannabis.

8.12.2 Evidence of insurance required herein shall be a condition of the issuance of any Registered Caregiver Permit under this Section, and shall be submitted to the Town as part of the applicant's Permit application. Certificates shall guarantee ten (10) 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.

8.12.3 By accepting a Registered Caregiver Permit from the Town, the Permittee 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, its officers, agents, employees, representatives, insurers, successors, board members and assigns for any injuries, damages or liabilities, resulting from the arrest, prosecution or other consequence of the Registered Caregiver or its parties of control for a violation of local, state, or federal laws, rules, or regulations.

8.13 No Caregiver Retail Stores. The Town of St. Albans does not allow medical cannabis "caregiver retail stores," as defined in 22 M.R.S. § 2421-A(12). Consequently, Permittees shall not: (a) post regular business hours for the Permitted Premises on said Permitted Premises or in any advertising or marketing materials; (b) allow access to the Permitted Premises by members of the general public; (c) permit more than two Qualifying Patients to enter the Permitted Premises for the purpose of purchasing or otherwise receiving medical cannabis at any time; (d) permit Qualifying Patients to enter the Permitted Premises without first having an appointment to do so; (e) sell goods or services other than medical cannabis, including but not limited to t-shirts, hats, mugs, or other such merchandise, directly to any Qualifying

Patient; or (f) operate the Permitted Premises with any other attribute that is generally associated with retail stores.

8.14 Signs. All Permittees shall display a sign on the Permitted Premises to enable emergency responders to locate said Permitted Premises. Such signs may only contain the Permittee's business name or trade name and the street address of the Permitted Premises, both of which shall be displayed in plain, non-stylized typeface. No additional content, including logos, are permitted

8.15 Local Taxes. No License shall be issued or renewed unless all property taxes, including penalties and interest, have been paid in full for the relevant tax year(s).

8.16 Permittee must attest to following all employee health and safety requirements under federal and state regulations.

8.17 Permittee must attest they are not part of any illegal or criminal organizations.

Section 9. Decision

9.1 Any applicant requesting a Registered Caregiver Permit from the Board of Selectmen shall be notified in writing of the Board's decision no more than fourteen (14) calendar days from the date of the Board's decision. In the event a Permit 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 sixty (60) days after an application for a Permit that has been denied.

9.2 The Board of Selectmen may, after notice and hearing, suspend or revoke Registered Caregiver Permits issued under this Ordinance if the Permittee, or any of the Permittee's officers, members, directors, or partners:

- 9.2.1 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;
- 9.2.2 Has not acquired and maintained all necessary State of Maine and local approvals prior to and during the term of the Permit;
- 9.2.3 Has been convicted of a Disqualifying Drug Offense, as defined in 22 M.R.S. § 2421-A(19);
- 9.2.4 Has had a Permit issued under this Ordinance, or any other applicable state or local approval revoked;
- 9.2.5 Has provided false or misleading information in connection with the Permit application; or
- 9.2.6 Has, after receiving written notice and demand, refused to allow the Permitted Premise 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.

Section 10. Inspections

A Permittee and its agents and employees, shall, at any reasonable time, permit inspection of the Permitted Premises by the Town if necessary to ensure compliance with the provisions of this Ordinance or any other applicable portion of local ordinance or state law.

Section 11. Appeals

Any appeal of a decision of the Board of Selectmen to grant, grant with conditions, deny, or revoke a Registered Caregiver Permit pursuant to this Ordinance, shall be to the 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.

Section 12. Violations and penalties.

The Town shall enforce this Ordinance through its Code Enforcement Officer. In addition to revocation and/or suspension of a Registered Caregiver Permit as provided in this Ordinance, any violation of this Ordinance shall be subject to a minimum fine of \$100.00 per day and a maximum fine of \$2,500 per day, pursuant to 30-A M.R.S. § 4452. Each day that a violation remains constitutes a separate violation. The Board of Selectmen, or its authorized agent, is authorized to institute legal proceedings in Maine District Court to enjoin the unlawful operation of a Registered Caregiver, 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.

Section 13. Waivers

The Board of Selectmen may, in its discretion, waive any requirements under Section 6 of this Ordinance if it finds that submittal of certain materials or procedures are unnecessary or irrelevant to the review of a particular Registered Caregiver Permit application.

Section 14. Transfer of Permit

A Registered Caregiver Permit may not be assigned or transferred to another person or entity. Any change in ownership or change in officers of the Permittee requires a new Permit. The new owners of any Registered Caregiver, as defined in this Ordinance, shall apply to the Board of Selectmen for a new Permit prior to beginning operation. Registered Caregiver Permits are limited to the premises for which they are issued and are not transferable to any other property. All Permittees who desire to relocate to a new location shall apply to the Board of Selectmen or its designee for a new Permit and if approved they shall relinquish the permit/Permit from the previous location.

Section 15. Validity and severability

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