



City of Caribou, Maine

AGENDA
Caribou Planning Board
Regular Meeting
Wednesday, February 1, 2017 at 5:30 p.m.
Caribou City Council Chambers

Municipal Building
25 High Street
Caribou, ME 04736
Telephone (207) 493-3324
Fax (207) 498-3954
www.cariboumaine.org

- I. Call to Order
- II. Approval of January 4, 2017 Planning Board Minutes 2-3
- III. Public Hearings
 - a. Site Design Review Application for Safe Alternatives 4-18
- IV. New Business
 - a. Ordinance regarding recreational Marijuana 19-22
- V. Old Business
 - a. Chapter 13 Re-write 23-55
- VI. Other Business
- VII. Adjournment



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Caribou Planning Board Meeting Minutes Wednesday, January 4, 2017 @ 5:30 pm City Council Chambers

In Attendance: Phil Cyr, Robert White, Philip McDonough III, Evan Graves, Michele Smith and Todd Pelletier

Members Absent: Matthew Hunter

Others in Attendance: Austin Bleess –City Manager & Code Enforcement Officer, Steve Wentworth, Penny Thompson –Tax Assessor & Building Official, Leo Trudell -Safe Alternatives, Ted Smith -Safe Alternatives Attorney and Denise Lausier

I. Swearing in of New Members

II. Election of Officers for 2017

- a. **Chairman** – Todd Pelletier made a motion to elect Phil Cyr as Chairman for 2017; seconded by Robert White. Vote was unanimous.
- b. **Vice-Chairman** – Robert White made a motion to elect Michele Smith as Vice Chairperson for 2017; seconded by Todd Pelletier. Vote was unanimous.
- c. **Secretary** – Phil Cyr made a motion to elect Robert White as Secretary for 2017; seconded by Philip McDonough III. Vote was unanimous.

III. Setting Meeting Dates/Times for 2017 – Robert White made a motion to keep the dates and times the same for 2017; seconded by Michele Smith. Vote was unanimous.

IV. New Business -

- a. **Marijuana Dispensaries Ordinances** – After Board discussion, Todd Pelletier moved to entertain a workshop with Planning Board members, City Council members, Police Chief and be open to the public; seconded by Phil McDonough III. Vote was unanimous.

There was discussion on the application submitted by Leo Trudell, d/b/a Safe Alternatives for a medical marijuana dispensary in Caribou. Phil Cyr moved to process

the medical marijuana dispensary application according to the ordinance that has been on the books for years; seconded by Philip McDonough III. Vote was unanimous.

After further discussion on the moratorium the City Council passed on marijuana dispensaries, Robert White moved to send a letter to the City Council drafted by Austin Bleess to clarify the moratorium; seconded by Phil Cyr. Vote was unanimous.

- V. Old Business** – Philip McDonough III brought up again for discussion, the potential issue of parking for Dr. Ortiz’s tenants. After discussion, Austin Bleess clarified that the requirement was met by the applicant at the time with an agreement with Napoli’s for off street parking and the Planning Board approved the application.

Phil Cyr made a motion that this item dies, to drop this issue; seconded by Robert White. 4 yes, 1 opposed (Philip McDonough III), 1 abstention (Michele Smith).

- VI. Other Business** – None.

- VII. Adjournment** – Phil Cyr moved to adjourn the meeting at 6:10 pm; seconded by Robert White. Vote was unanimous.

Respectfully Submitted,

Robert White
Planning Board Secretary

RW/dl



OFFICE OF THE CITY MANAGER
CARIBOU, MAINE

To: Chairman and Planning Board Members
From: Austin Bleess, City Manager
Date: February 1, 2017
Re: Site Design Review Application for Safe Alternatives

Tonight the Planning Board is holding a public hearing on the Site Design Application submitted by Leo Trudel for Safe Alternatives.

On the application Josh Ouellette Enterprises LLC is listed as the Property Owner/Developer. It's unclear what if any role that LLC is playing in this other than being the landlord. They did submit a lease with the proposal. The LLC owns the property across the street where Sullivans Floorcovering is located.

The application says the existing use of the land is commercial. The building has been vacant for a few years. Most recently it has been used for a Daycare facility.

The application says the building plan has not been reviewed by the state fire marshal office or the Caribou Fire Chief. Any building plan would have to be reviewed by both entities and should be made a condition of approval, if the Planning Board chooses to approve this.

The full application follows this.

The Planning Board needs to decide whether this application meets the following criteria while they decide the issue.

Conformance with Comprehensive Plan

This topic is not discussed in the Comprehensive Plan. Staff feels this projects does fall within the overarching topics of the Comp Plan and does conform with them.

Traffic

It's unknown how much extra traffic this site might cause. Given that it is on Route 1 staff feels traffic is not a large concern. However when the Day Care was still operating there staff did hear concerns about people turning into the location with other traffic at high rates of speed. This is an area that should be monitored in conjunction with the Caribou PD and Maine DOT.

Site Access

Staff believes this does meet site access criteria.

Parking and Vehicle Circulation

There was nothing submitted with this application for staff to evaluate whether or not this criteria is met. Ordinance states the following:

Medical Marijuana Disbursing Facilities must provide adequate off street parking on site at 1 parking space per every 150 square feet of interior space. Each parking space shall be a minimum of 9 feet wide by 21 feet long.

Based upon property tax records the square footage of the building 1,296 square feet. Which would require 9 parking spaces.

Based upon the lack of information provided by the applicant staff does not feel this criteria has been met.

Pedestrian Circulation

Staff feels this is not applicable to this project.

Site Conditions

As this site is already developed this criteria has been met.

Open Space

This is not applicable in this situation.

Sanitary Sewage

Based upon the HHE-200 form submitted with the application staff believes this criteria is met.

Water

Based upon the water qualify reports submitted with the application staff believes this criteria is met.

Emergency Vehicle Access

This site has adequate Emergency Vehicle Access, and this criteria has been met.

Waste Disposal

The Dimensions of the Utility Closet are not provided. But it appears this location could accommodate the required space for the recycling containers.

Buffering

It does appear that buffering is in place on this site already.

Natural Areas

As this site is already developed this criteria is not applicable.

Exterior Lighting

There is nothing submitted with the application for staff to evaluate whether or not this criteria has been met.

Exterior security lighting comprised of spot lights with motion sensors covering the full perimeter of the facility is required as per ordinance.

Stormwater Management

As this site is already developed this criteria has been met.

Erosion & Sediment Control

As this site is already developed this criteria has been met.

Buildings

As this site is already developed this criteria has been met.

Existing Landscaping

As this site is already developed this criteria is not applicable.

Infrastructure

As this site is already developed this criteria is not applicable.

Advertising Features

Based upon the sign permit application that has been submitted this criteria has been met.

Design Relationship to Site and Surrounding Properties

Based upon the information submitted staff believes the proposed development provides a reasonably unified response to the design constraints of the site and is sensitive to nearby developments by virtue of the location, size, design, and landscaping of buildings, driveways, parking areas, storm water management facilities, utilities storage areas, and advertising features.

As such staff believes this criteria is met.

Scenic Vistas and Areas

This site does not result in the loss of Scenic Vistas and Areas. So this criteria is not applicable.

Utilities

As this site is already developed this criteria has been met.

Mineral Exploration

As this site is already developed this criteria has been met.

General Requirements

General Requirements would include the requirements for Medical Marijuana facilities. The General Requirements that have not already been discussed include:

Lockable doors and windows to include intrusion alarms with audible and police notification components sending notification directly to or through a second party to the Caribou Police Department. Applicant states they are compliant with this. This would be checked before the final Certificate of Occupancy would be issued.

Video surveillance capable of covering the entire perimeter of the facility, interior, and all plants cultivated within the facility. The video surveillance system shall be operated with continuous

recording twenty-four hours per day seven days per week and such records of surveillance shall be retained for a minimum duration of 90 days. Applicant states they can accommodate this requirement.

Medical Marijuana Disbursing Facilities must provide an adequate interior waiting area to ensure no exterior waiting of clients. It does appear based upon the drawing submitted that this requirement is met.

Phosphorus Export

As this site is already developed this criteria has been met.

Summary

Staff finds that the Parking and Vehicle Circulation and Exterior Lighting requirements have not yet been met, or the documentation for such has not yet been provided. As such staff recommends that the Planning Board table any action on this plan until the Developer can provide adequate information that these areas of the code have been met.



Site Design Application

Planning & Code Enforcement
City of Caribou
25 High St.
Caribou, Maine 04736

(207) 493-3324 option 3
citymanager@cariboumaine.org

Note to Applicant: Complete this application and return it with the required documents. In addition, the required fee must be returned along with this completed application. Make checks payable to: "City of Caribou", in the amount of \$90.00 plus \$10.00 per 2000 square feet of total gross floor area for commercial, industrial or other non residential applications.

Please print or type all information

Name of Property Owner / Developer: Josh Ouellette Enterprises LLC
Development Name: Subc Alternatives
Location of Property (Street Locations): 1137 Presque Isle Rd.
City of Caribou Tax Map: 2 Lot: 48-C Zone: R-C2

Site Design Review Application - City of Caribou, Maine

Site Design approval will not be considered complete until the Planning Board has determined it has all of the necessary information to review the proposal and render a decision. You are advised to meet with the Code Enforcement Officer prior to completing the application as it may not be necessary to comply with all of the items shown on the form. The review of your application shall consist of at least (2) two presentations to the Planning Board and possibly additional presentations until all required information has been provided. A "Performance Bond" may be required prior to approval of this project.

Person and address to which all correspondence regarding this application should be sent to:

Leo Trudel

Phone: 207 316 6190

PO 100

Eagle Lake ME

E-mail: leo.trudel@maine.edu

If applicant is a corporation, check if licensed in Maine
(Attach copy of Secretary of State Registration) ☒ Yes ☐ No

Name of Land Surveyor, Engineer, Architect or other Design Professionals. (attach list if needed)

Phone: _____

Phone: _____

What legal interest does the applicant have in property to be developed (ownership, owner's representative, option, purchase & sales contract, etc?)

lease (see Appendix "A")
(Attach supportive legal documentation)

Aroostook County Registry Deeds: Book # 5496 Page # 213 (attach copy of deed)

What interest does the applicant have in any abutting property? owns property across street

Is any portion of the property within 250 feet of the normal high water line of a lake, pond, river, or wetland or within 75 feet of any stream? ☐ Yes ☒ No

Is any portion of the property within a Flood Hazard Zone? ☐ Yes ☒ No

Total area or acreage of parcel: 1 Ac. Total area or acreage to be developed: N.A.

Has this land been part of subdivision in the past five years? ☐ Yes ☒ No

Identify existing use(s) of land (farmland, woodlot, residential, etc.) Commercial

Indicate any restrictive covenants to be placed in the deed: No (see attached deed)

(Attach list if needed)

Does the applicant propose to dedicate any recreation area, or common lands? ☐ Yes ☒ No

Recreation area(s) Estimated Area & Description: _____

Common land(s) Estimated Area & Description: _____

Anticipated start date for construction: month / year 1 ASAP Completion: 1

Does any portion of the proposal cross or abut an adjoining municipal line? ☐ Yes ☒ No

Does this development require extension of public services? ☐ Yes ☒ No

Roads: _____ Storm Drainage: _____ Sidewalks: _____ Sewer Lines: _____ Other: _____

Estimated cost for infrastructure improvements: \$ 5,000

Water Supply: Private Well: ☒ Public Water Supply: ☐

Sewerage Disposal: Private SSWD: ☒ Public Sewer: ☐

Estimated sewerage disposal gallons per day: (20 day)

Does the building require plan review by the State Fire Marshal Office? ☐ Yes ☒ No
(Attach Barrier free and Construction Permits from SFMO)

Have the plans been reviewed & approved by the Caribou Fire Chief? ☐ Yes ☒ No

Does the building have an automatic sprinkler system? ☐ Yes ☒ No

Does the building have an automatic fire detection system? ☒ Yes ☒ No

Will the development require a hydrant or dry hydrant fire pond? ☐ Yes ☒ No

1. The Planning Board shall review applications first as a Concept Plan. Concept Plan Review is intended to insure the proposed plan is in conformance with the Caribou Comprehensive Plan and all City Ordinances. The completed application and concept plans shall be delivered to the Code Enforcement Office no less than 21 days prior to the first day of the next month. The Chairman of the Planning Board shall determine the schedule and agenda of the next meeting when the application and plans will receive Concept Plan Review. At a minimum, Concept Plan applications shall include the following:

1. _____ Name and address of the owner of record and applicant (if different).

2. N.A. Name of the proposed development and location.
3. ✓ Names and addresses of all property owners within 500 feet of the property.
4. ✓ A copy of the deed to the property, option to purchase the property, or other documentation to demonstrate right, title, or interest in the property on the part of the applicant. *Please see Appendix "A"*
5. N.A. Names and addresses of all consultants working on the project.
6. N.A. 1 complete set of plans, 24" X 36" & 10 complete sets of plans, 11" X 17"
Plans to be included:
Boundary Survey
Storm Water Management
Erosion and Sediment Control
Finish Grading Plan
Site Improvement Detail
Building Elevations and Structural Plans

7. **Plans to show the following elements for review:**

- N.A. a. Graphic scale and north arrow.
- N.A. b. Location and dimensions of any existing or proposed easements and copies of existing covenants or deed restrictions.
- N.A. c. Name, registration number, and seal of the land surveyor, architect, engineer, and/or similar professional who prepared the Plan.
- N.A. d. All property boundaries, land area, and zoning designations of the site, regardless of whether all or part is being developed at this time.
- ✓ e. Size, shape, and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines.
- N.A. f. Access for Emergency Vehicles, location and layout design of vehicular parking, circulation areas, loading areas, and walkways including curb cuts, driveways, parking space and vehicle turn around areas.
- Existing N.A. g. Location and names of streets and rights-of-way within 200' and adjacent to the proposed development.
- N.A. h. Proposed finish grades and graphic arrows indicating the direction of storm water runoff.
- N.A. i. Conceptual treatment of on and off site storm water management facilities.
- N.A. j. Location and sizes of existing and proposed sewer and water services including connections.
- N.A. k. Conceptual treatment of landscaping buffers, screens, and plantings.
- ✓ l. Location of outdoor storage areas, fences, signage and accessory structures.
- Using existing sign N.A. m. Context map illustrating the area surrounding the site which will be affected by the proposal including all streets, sidewalks, intersections, storm water

drainage ways, sanitary sewer lines and pump stations, nearby properties and buildings, zoning Districts, and geographic features such as, but not limited to, wetlands, natural features, historic sites, flood plains, significant scenic areas, and significant wildlife habitats as provided in the Comprehensive Plan.

✓
EXISTING

- n. All proposed signage and exterior lighting including the location, size and wording of all signs, type of exterior lights, radius of light, manufacturer's specifications sheet, and the ground level intensity in foot- candles of all exterior lights.

Following approval of the Concept Plan Review, the Planning Board may by majority vote schedule the Site Design Application for Final Plan Review. Final Plan Review must be at least 30 days following Concept Plan Approval. If additional information is required by the Planning Board following the Concept Plan Review, a complete set of revised plans shall be provided for final review and approval. If additional information or a change of information is required, the revised plans shall be delivered to the Code Enforcement Office at least 21 days prior to the next scheduled meeting.

Final Site Design Plan Review shall require three (3) 24" X 36" sets of plans for Board Signatures.

If the Planning Board determines that third party review will be necessary to make a sound decision, the applicant will be responsible for any fees incurred for the third party review.

During the Final Site Design Review the Chairman or designee shall determine that all of the elements of review 7-a., through 7-n. above have been addressed. The chair may then call for a motion.

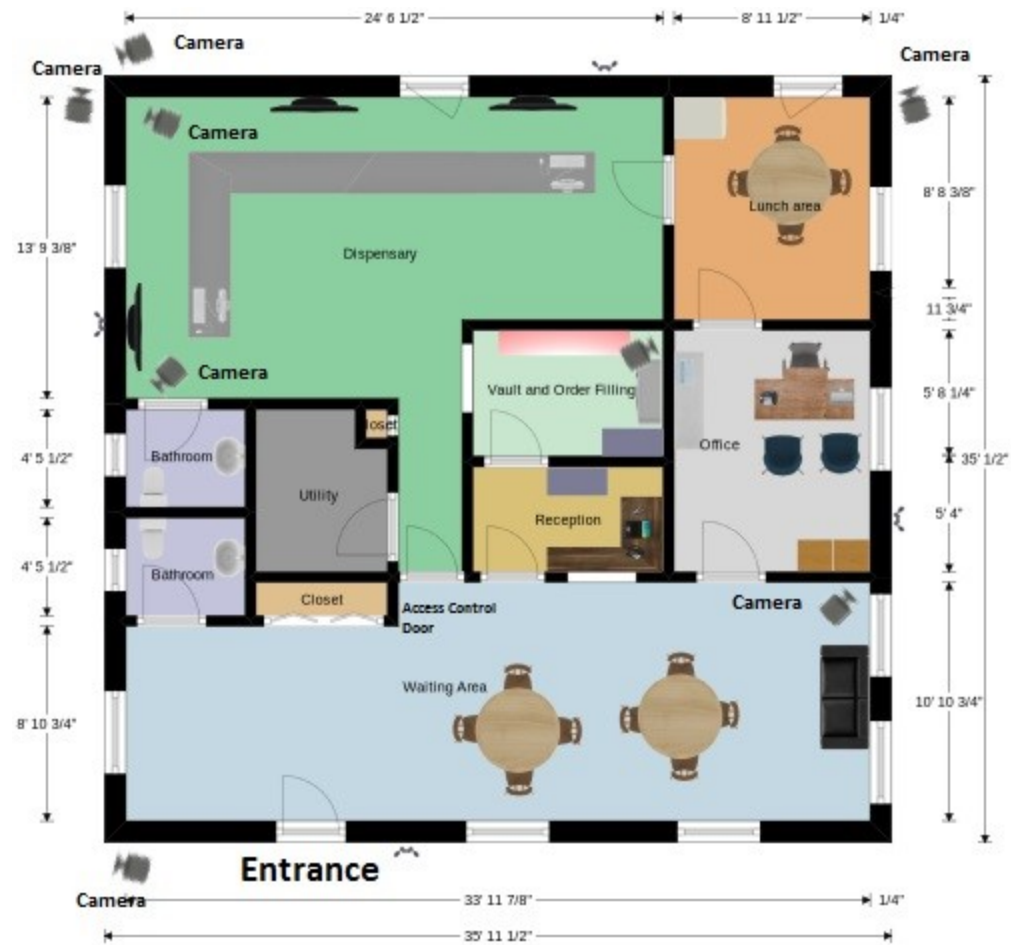
If the Final Plan is approved by the Planning Board, no work may commence for a period of 30 days following the date of approval.

Final Site Design Plans shall provide an area designated for all seven Planning Board members' signatures.

Applicant Signature:

To the best of my knowledge, all of the information submitted in this application is true and correct.

Signature of Applicant: Lee C. Funder Date: 10/26/2016



Map Lot 002-048-C			Account 102			Location 1137 PRESQUE ISLE ROAD			Card 1		Of 1		1/11/2017					
OUELLETTE ENTERPRISES, LLC						Property Data			Assessment Record									
						Neighborhood 11			Year	Land	Buildings	Exempt	Total					
						Tree Growth Year 0			2004	17,500	48,600	0	66,100					
						X Coordinate 0			2005	19,500	48,600	0	68,100					
P O BOX 577 CARIBOU ME 04736 B5496P213						Y Coordinate 0			2006	19,500	48,600	0	68,100					
Previous Owner ELLIS, JAYE A. 1100A CENTRAL DRIVE						Zone/Land Use 21 Commercial			2007	19,500	48,600	0	68,100					
						Secondary Zone			2008	19,500	48,600	0	68,100					
									2009	19,500	48,600	0	68,100					
									Topography 2 Rolling			2010	19,500	48,600	0	68,100		
						PRESQUE ISLE ME 04769 Sale Date: 12/02/2015						1.Level 4.Below St 7.LevelBog			2011	19,500	48,600	0
2.Rolling 5.Low 8.			2012	26,000	67,500							0	93,500					
3.Above St 6.Swampy 9.			2013	26,000	67,500							93,500	0					
Utilities 4 Drilled Well 7 Septic System			2014	26,000	67,500							0	93,500					
CARIBOU ME 04736 Sale Date: 4/29/2013												1.Public 4.Dr Well 7.Septic			2015	26,000	67,500	0
						2.Water 5.Dug Well 8.Holding Ta			2016	26,000	67,500	0	93,500					
						3.Sewer 6.Shared Wel 9.None												
						Street 1 Paved			Land Data									
						1.Paved 4.Proposed 7.												
Previous Owner ELLIS, JAYE A. 1100A CENTRAL DRIVE						2.Semi Imp 5.R/O/W 8.			Front Foot		Type	Effective		Influence		Influence Codes		
						3.Gravel 6. 9.None						Frontage	Depth	Factor	Code			
						TG PLAN YEAR 0			11. 12. 13. 14. 15.					% % % % % %	1.Use 2.R/W 3.Topography 4.Size/Shape 5.Access 6.Restriction 7.Vacancy 8.Semi-Improved 9.Fract Share Acres			
						ACTION NEEDED 0												
						Sale Data												
Sale Date 12/02/2015																		
Price 79,000																		
X						Sale Type 2 Land & Buildings			Square Foot			Square Feet						
						1.Land 4.Mobile 7.C/I L&B												
						2.L & B 5.Other 8.												
						3.Building 6.C/I Land 9.												
						Financing 9 Unknown												
Notes: 2014 - REMOVED MUNICIPAL EXEMPTION 08/26/2013 - VERIFIED MAILING ADDRESS W/CARL GRANT						1.Convent 4.Seller 7.			Fract. Acre			Acreage/Sites						
						2.FHA/VA 5.Private 8.												
						3.Assumed 6.Cash 9.Unknown												
						Validity 1 Arms Length Sale												
						1.Valid 4.Split 7.Renovate												
04/20/2013 - QC FROM CITY TO JAYE ELLIS (REDEEMED) 11/27/2012 - 2010 EXPIRED TAX LIEN						2.Related 5.Partial 8.Other			Acres									
						3.Distress 6.Exempt 9.												
						Verified 5 Public Record												
						1.Buyer 4.Agent 7.Family												
						2.Seller 5.Pub Rec 8.Other												
Caribou						3.Lender 6.MLS 9.			24.Houselot 25.Baselot 26. 27. 28.Rear Land 1 29.Rear Land 2			Total Acreage 1.00						

Caribou

Map Lot 002-048-C

Account 102

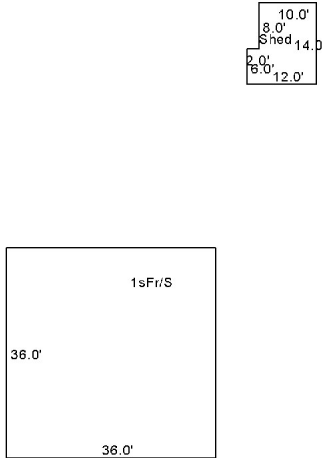
Location 1137 PRESQUE ISLE ROAD

Card 1 Of 1 1/11/2017

Building Style	1 Conventional		SF Bsmt Living	0		Layout	1 Typical		
1.Conv.	5.Colonial	9.Condo	Fin Bsmt Grade	0 0		1.Typical	4.	7.	
2.Ranch	6.Split	10.Log	OPEN 5 OPTIONAL	0		2.Inadeq	5.	8.	
3.R Ranch	7.Contemp	11.Other	Heat Type	100% 1 Hot Water BB		3.	6.	9.	
4.Cape	8.Cottage	12.Gambrel	1.HWB	5.FWA	9.No Heat	Attic	9 None		
Dwelling Units	0		2.HWC	6.GravWA	10.	1.1/4 Fin	4.Full Fin	7.	
Other Units	1		3.H Pump	7.Electric	11.	2.1/2 Fin	5.F/Stair	8.	
Stories	1 One Story		4.Radiant	8.F/Wall	12.	3.3/4 Fin	6.	9.None	
1.1	4.1.5	7.3.50	Cool Type	0% 9 None		Insulation	1 Full		
2.2	5.1.75	8.4	1.Refrig	4.W&C Air	7.	1.Full	4.Minimal	7.	
3.3	6.2.5	9.	2.Evapor	5.	8.	2.Heavy	5.Partial	8.	
Exterior Walls	2 Vinyl		3.H Pump	6.	9.None	3.Capped	6.	9.None	
1.Wood	5.Shingles	9.Other	Kitchen Style	2 Typical		Unfinished %	0%		
2.Vinyl	6.Brick	10.Alum	1.Modern	4.Obsolete	7.	Grade & Factor	2 Fair 100%		
3.Compos.	7.Single	11.Log	2.Typical	5.	8.	1.E Grade	4.B Grade	7.AAA Grad	
4.Asbestos	8.Concrete	12.Stone	3.Old Type	6.	9.None	2.D Grade	5.A Grade	8.MS Grade	
Roof Surface	1 Asphalt Shingles		Bath(s) Style	2 Typical Bath(s)		3.C Grade	6.AA Grade	9.Same	
1.Asphalt	4.Composit	7.	1.Modern	4.Obsolete	7.	SQFT (Footprint)	1296		
2.Slate	5.Wood	8.	2.Typical	5.	8.	Condition	4 Average		
3.Metal	6.Rolled R	9.	3.Old Type	6.	9.None	1.Poor	4.Avg	7.V G	
SF Masonry Trim	0		# Rooms	0		2.Fair	5.Avg+	8.Exc	
OPEN-3-CUSTOM	0		# Bedrooms	0		3.Avg-	6.Good	9.Same	
OPEN-4-CUSTOM	0		# Full Baths	0		Phys. % Good	0%		
Year Built	1990		# Half Baths	2		Funct. % Good	100%		
Year Remodeled	0		# Addn Fixtures	1		Functional Code	9 None		
Foundation	5 Concrete Slab		# Fireplaces	0		1.Incomp	4.Plb/Heat	7.	
1.Concrete	4.Wood	7.ICF							
2.C Block	5.Slab	8.							
3.Br/Stone	6.Piers	9.							
Basement	9 No Basement								
1.1/4 Bmt	4.Full Bmt	7.							
2.1/2 Bmt	5.Crawl Sp	8.							
3.3/4 Bmt	6.	9.None							
Bsmt Gar # Cars	0								
Wet Basement	9 No Basement								
1.Dry	4.Dirt	7.							
2.Damp	5.	8.							
3.Wet	6.	9.							

Date Inspected 8/31/2010

Additions, Outbuildings & Improvements								1.One Story Fram
Type	Year	Units	Grade	Cond	Phys.	Funct.	Sound Value	2.Two Story Fram
24 Frame Shed	1	152	2 100	4	0 %	100 %		3.Three Story Fr
					%	%		4.1 & 1/2 Story
					%	%		5.1 & 3/4 Story
					%	%		6.2 & 1/2 Story
					%	%		21.Open Frame Por
					%	%		22.Encl Frame Por
					%	%		23.Frame Garage
					%	%		24.Frame Shed
					%	%		25.Finished 1/2 S
					%	%		26.1SFr Overhang
					%	%		27.Unfin Basement
					%	%		28.Unfinished Att
					%	%		29.Finished Attic



Austin Bleess

From: chad emper <emperc@yahoo.com>
Sent: Friday, January 20, 2017 12:37 PM
To: Austin Bleess
Cc: Leo Trudel
Subject: Re: Safe Alternatives - Caribou
Attachments: Caribou1a.jpg

Good Afternoon Mr. Bleess,

My name is Chad E. Emper and I am the current Operations Manager for Safe Alternatives. I have attached a diagram of the floorplan for the site at 1137 Presque Isle Road. The diagram should show all of the internal and external security camera placements as well as outdoor flood lighting on each side of the building for complete external illumination. My general inclination is to go above the motion detector control standard and have flood lights remain on in the evening. But, if the town prefers, we can certainly have them be motion controlled.

All doors and windows are manually lockable, with the exception of the internal door leading to the dispensary area(refer to diagram). This door is lockable manually, but also by electronic solenoid that is controlled by reception. This way only patients that have been verified(identification and doctors certification as well as sole designation to the dispensary as required by law).

The outer cameras are located to view the entire perimeter with an eye toward areas of ingress. The inner cameras are located to view areas of ingress as well as other security and business sensitive area/activities such as packaging and cash handling.

Fire and burglar alarms, as well as panic buttons, will continue to be monitored by Third Eye Global.

The Maine Rules Governing the Medical Use of Marijuana Program, 10-144 CMR Chapter 122, state that :

"6.8.4 The interior must be equipped with electronic monitoring, video cameras, and panic buttons. Electronic monitoring and video camera recording records must be maintained by the dispensary for at least 14 days"

That being stated, I am rarely opposed to going over and above the standard to ensure the security and safety of our patients and employees. If the town wishes to require 90 days, we will accommodate. If you could find time to give some guidance or clarification of the town's position on this one, it would be greatly appreciated. Also, there will be no plants grown at this facility.

Also, as laid out in the current floorplan, there are 345 square feet of furnished waiting area. Our current dispensary in Eagle Lake has about 15% of this waiting capacity and we have never had patients waiting outside of that facility. The general workflow of a properly run dispensary means that no verified patients should really ever have to wait. The actual dispensary area is only 330 square feet. While there is far more waiting area than could ever be needed by a dispensary of this size, it is just a happy consequence of keeping most of the original layout and deciding not to gut the building and start over.

The state inspectors have already been through the site and are excited about the location and the building. I want to extend the same courtesy to you and the Caribou Police and Fire chiefs if you would like to tour the facility. This will mark the 5th dispensary I have built in the state as I designed Wellness Connection of Maine's four state licensed facilities. I always like to bring community leaders through to see what we do as well as who we are and why we are in this new industry.

I thank you for your time and attention to these details. Please let me know if I have not satisfied your concerns or if there is anything else that we can do for you. I can be reached at the number/email below.

Sincerely,

Chad E. Emper
Operation Manager
Safe Alternatives
emperc@yahoo.com
207-444-2846

From: chad emper <emperc@yahoo.com>
To: Leo Trudel <leo.trudel@maine.edu>
Sent: Thursday, January 12, 2017 9:55 AM
Subject: Re: Safe Alternatives - Caribou

Got it.

cee

From: Leo Trudel <leo.trudel@maine.edu>
To: chad emper <emperc@yahoo.com>
Sent: Thursday, January 12, 2017 9:48 AM
Subject: FW: Safe Alternatives - Caribou

Can you address this with Chuck as well as with the diagram of the dispensary that you laid out?

From: Austin Bleess [mailto:citymanager@cariboumaine.org]
Sent: Wednesday, January 11, 2017 4:38 PM
To: leo.trudel@maine.edu
Subject: Safe Alternatives - Caribou

Good afternoon Mr. Trudel,

I'm reviewing your Site Design Application. For the most part things look to be in order. However it appears that two pieces of information are missing:

1. Nothing was provided to show if there is adequate interior waiting area to ensure no exterior waiting of clients.

The Planning Board will want to make sure that this requirement is met before approving the site design.

Also, I see nothing in the plan that verifies the following security requirements are being met:

- a. Lockable doors and windows to include intrusion alarms with audible and police notification components sending notification directly to or through a second party to the Caribou Police Department.
- b. Exterior security lighting comprised of spot lights with motion sensors covering the full perimeter of the facility.

c. Video surveillance capable of covering the entire perimeter of the facility, interior, and all plants cultivated within the facility. The video surveillance system shall be operated with continuous recording twenty-four hours per day seven days per week and such records of surveillance shall be retained for a minimum duration of 90 days

I understand that these ones are a bit tougher at the moment to demonstrate, but I wanted to make sure you were aware of these as the approval would likely be contingent upon these things being verified before the Certificate of Occupancy is approved.

Thanks,

Austin Bleess
City Manager | Caribou, Maine
(p) 207-493-3324 x230 | (f) 207-498-3954
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OFFICE OF THE CITY MANAGER
CARIBOU, MAINE

To: Chairman and Planning Board Members
From: Austin Bleess, City Manager
Date: February 1, 2017
Re: Ordinance regarding recreational marijuana

On the following pages is the proposed ordinance banning recreational marijuana.

Our Code, Chapter 13, Section 850, requires the Planning Board to hold a public hearing on this. If this ordinance is what the Planning Board would like to put forward we will schedule a public hearing for this ordinance for March 1. Then it can be forwarded to the City Council for introduction there on March 13, and public hearing and action on March 27th.

Councilor _____ introduced the following ordinance:

Ordinance No. __, 2017 Series
City of Caribou
County of Aroostook
State of Maine

AN ORDINANCE PROHIBITING RECREATIONAL MARIJUANA

The City Council of the City of Caribou, County of Aroostook, State of Maine, pursuant to the requirements of the City of Caribou Charter, Section 2.11 (1) does ordain the following:

Section 1. Authority. The ordinance is adopted pursuant to the Title 30-A M.R.S. §3001 and Title 7 M.R.S. c. 417.

Section 2. Purpose and Intent. The purpose of this ordinance is to impose a ban on the operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs in the City of Caribou to protect the health, safety, and welfare of the people of Caribou as these activities constitute a nuisance.

Section 3. Prohibition. The operation of Retail Marijuana Establishments which includes Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana Products Manufacturing Facilities, and Retail Marijuana Testing Facilities; and the operation of Retail Marijuana Social Clubs are prohibited within the City of Caribou, and therefore all activities related to the abovementioned retail uses such as, but not limited to, cultivation, possession, extraction, manufacturing, processing, storing, laboratory testing, labeling, transporting, delivering, dispensing, transferring, and distributing are expressly prohibited within the City of Caribou.

Section 4. Exemptions.

A. Personal Use of Marijuana. This ordinance shall not be construed to prohibit the Personal Use of Marijuana per Title 7 M.R.S. c. 417 section 2452.

B. Medical Use of Marijuana. This ordinance shall not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act and the City of the Caribou Code of Ordinances, c. 56 Unified Development Ordinance.

Section 5. Relationship with Other Ordinances. Whenever a provision of this ordinance is inconsistent with another provision of any other ordinance, regulation, or statute, the more restrictive provision shall control.

Section 6. Validity and Severability. Should any section or provision of this ordinance be declared by the courts to be invalid, such a decision shall not invalidate any other section or provision of this ordinance.

Section 7. Enforcement.

A. Any duly designated Caribou Police Officer is authorized and shall have the authority to enforce all provisions of this ordinance.

B. The City Manager is authorized to order that legal action be taken to enforce the provisions of this Ordinance.

Section 8. Cease Operations Order.

A Police Officer may issue a written cease operations order directing the occupancy, use, and other activities prohibited under this ordinance to cease immediately, and that the premises be vacated. Upon notice of the cease operations order, all occupancy, use, or other activity subject to the cease operations order shall stop immediately and the premises shall be vacated and closed.

Section 9. Penalty. Any person violating the provisions of this ordinance may be liable for the penalties set forth below:

A. Civil Penalties.

- i. First Violation. The maximum penalty for undertaking an activity related to Retail Marijuana Establishments or Retail Marijuana Social Clubs is \$2,500.
- ii. Multiple. The maximum penalty for undertaking an activity related to Retail Marijuana Establishments or Retail Marijuana Social Clubs is \$25,000 when it is shown that there has been a previous conviction of the same person within the past five (5) years for a violation of the ordinance.
- iii. Economic Benefit. The maximum penalty may be increased if the economic benefit resulting from the violation exceeds the applicable penalties. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.
- iv. Setting of Penalty. In setting a penalty, the following shall be considered:
 - a. Prior violations by the same party;
 - b. The impact caused and/or potential impact posed by the operation of the prohibited activity to the health, safety, and welfare of the people of Caribou.
 - c. The damage that cannot be abated or corrected; and
 - d. The extent to which the violation continued following an order to stop.

B. Abatement and Mitigation. The violator may be ordered to correct, abate or mitigate the violations.

C. Damaged Incurred. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage incurred by the City by reason of such violation.

D. Attorney Fees. If Caribou is the prevailing party, the City must be awarded reasonable attorney fees, expert witness fees and costs.

Section 10. Definitions. The definitions below are per Title 7 M.R.S. c. 417, section 2442.

Marijuana: Means cannabis.

Extraction: The process of extracting marijuana with solvents or gases.

Person: 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.

Retail Marijuana: Cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

Retail Marijuana Cultivation Facility: An entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

Retail Marijuana Establishment: Retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

Retail Marijuana Product: Concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

Retail Marijuana Products Manufacturing Facility: An entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

Retail Marijuana Social Club: An entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

Retail Marijuana Store: An entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

Retail Marijuana Testing Facility: An entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

This ordinance, being introduced on _____ and a public hearing being held on _____, was duly passed by the City Council of the City of Caribou, Maine, this _____.

Gary Aiken, Mayor

David Martin, Councilor

Shane McDougall, Councilor

Timothy Guerrette, Councilor

Philip J. McDonough II, Councilor

Jody Smith, Councilor

Joan Theriault, Councilor

Attest:

Jayne R. Farrin, City Clerk



OFFICE OF THE CITY MANAGER
CARIBOU, MAINE

To: Chairman and Planning Board Members
From: Austin Bleess, City Manager
Date: February 1, 2017
Re: Chapter 13 Re-Write

We are making progress on the Chapter 13 re-write. I've been busy piecing together the work that has been done over the past 12 months. I hope to have a final product for the Planning Board in February.

But here is the last part of the chapter 13 with edits suggested by me. Please go through this and be prepared to discuss it at our meeting. As always, other edits and thoughts are suggested and encouraged as well.

Sec. 13-720 Automobile Graveyards and Junkyards.

1. Applicability.

This Section shall apply to the Districts where automobile graveyards and junkyards are a permitted use. Automobile graveyards and junkyards area prohibited in the remaining Districts.

2. Administration.

- A. This Section shall be administered by the Planning Board and enforced by the CEO. No automobile graveyard or junkyard permit shall be issued unless the provisions of this Ordinance are complied with. The Planning Board may attach reasonable conditions to any permit issued to insure compliance with the performance standards and other requirements of this Ordinance.
- B. Permits shall be renewed annually to remain valid and expire on December 31st of each year. Once the site design is approved it does not have to be resubmitted unless there are to be changes to the site. The City Council shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this Ordinance and state law are complied with.
- C. An annual fee established by the City of \$50 shall be submitted with the permit application, plus the cost of posting and publishing the notice of public hearing required below.
- D. The City may require that an escrow account of \$500 be established by the applicant in the name of the "*City of Caribou*" for the purposes of obtaining independent verification of application data, if necessary. If the balance in the account shall be drawn down by 75 percent, the City shall notify the applicant and require that the account balance be reestablished by the applicant to the escrow account's indicated amount. The City shall continue to notify the applicant and require additional payments into the account, as necessary. Any balance remaining in the account after final determination has been made, shall be returned to the applicant.
- E. Upon receipt of a final application, the Planning Board shall hold a public hearing in accordance with Title 30-A, MRSA, §3754.

3. Requirements for Automobile Graveyards and Junkyards.

- A. No person may establish, operate, or maintain an automobile graveyard or junkyard without first obtaining a non-transferable permit from the Planning Board. At the time of filing an application for a permit under this Ordinance, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.
- B. Any application for an automobile graveyard or junkyard permit shall contain the following information:
 1. The applicant shall submit a site design drawn to a scale not to exceed 1"=100', on which is shown:
 - a. The boundary lines of the property;
 - b. The exact location of any existing and proposed junkyard or automobile graveyard and their distances to nearby roads and property lines;
 - c. The soils as reflected from a high intensity soils survey;
 - d. The location of on-site septic system(s) and drinking water supplies;
 - e. Topographic contours at intervals of 10';
 - f. The location of any sand and gravel aquifer or aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist;
 - g. The location of any residences, schools, churches, cemeteries, public parks, beaches, and playgrounds within 500 feet of the area where cars or junk will be placed;
 - h. The location of any waterbodies or inland wetlands areas on the property and/or within 200 feet of the property lines;
 - i. The boundaries of any 100-year floodplain; and
 - j. The location of all roads within 1000' of the site.

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2. The names and addresses of all abutting or impacted property owners, as determined by the Planning Board.
3. The name(s) and address(es) of the person(s) or entity(ies) who will operate the site.
4. The height and material used in any existing and proposed screening.

4. Performance Standards for all Automobile Graveyards and Junkyards.

The following performance standards shall be required of all automobile graveyards and junkyards:

- A. The junkyard or automobile graveyard must be screened from ordinary view from any road, as required by statute. The site of the automobile graveyard or junkyard shall have an effective visual screen no less than six (6) feet in height, and be built in accordance to the Maine Department of Transportation's rules issued pursuant to Title 30-A, MRSA, §3759. A plan for visual screening shall be submitted to the Planning Board for approval in conjunction with the application for a permit.
- B. No vehicle or junk shall be stored within 300 feet of any waterbody or inland wetland.
- C. No vehicle or junk shall be stored within 500 feet of any (residences), private well, school, church, cemetery, public playground, public beach, or public park.
- D. No vehicles or junk shall be stored over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey or by a licensed geologist.
- E. No vehicles or junk shall be stored within the 100-year flood plain.
- F. Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules, and regulations regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle or junk shall be permitted into or onto the ground.
- G. There will be no disposal or release to the environment of any solid, special, or hazardous wastes;
- H. There will be no open burning of any substances;
- I. All vehicles or junk shall be located no closer than 100 feet from all property lines.
- J. To reduce noise, all dismantling, crushing, and other activities shall be done between 7 AM and 10 PM, Mondays through Saturdays.
- K. All federal and state hazardous waste laws and regulations shall be complied with.
- L. In all instances the burden of proof shall be upon the applicant for the permit.
- M. Any automobile graveyard or junkyard in existence on the date of adoption this Ordinance, may remain in operation on the current parcel of land, providing it meets all pertinent statutory and Ordinance requirements.
- A. Any automobile graveyard or junkyard shall not expand unless all statutory and requirements of this Ordinance are met.

Sec. 13-730 Mineral Exploration and Extraction.

The following standards are applicable to all mineral exploration and extraction activity within the City.

1. Mineral Exploration.

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the CEO shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled, or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

2. Mineral Extraction.

- A. Any extraction operation that requires a permit from the Maine Department of Environmental Protection (MDEP) under the Site Location of Development Act shall obtain written approval from the MDEP and the Planning Board.

- B. Any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than 1000 cubic yards of product within 12 successive months shall require a permit from the Planning Board.

3. Submission Requirements.

The following submission requirements shall be reflected on a plan to be included with the application and apply to any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than 1000 cubic yards of product within 12 successive months.

- A. Existing and proposed limits of the excavation, clearly delineated.
- B. Location, function, and ground areas of all structures, facilities, parking lots, and roads.
- C. Entrance and exit locations.
- D. Gates or other means of access control.
- E. Pre- and post-development topography shall use an interval of two (2) foot contours for pits of less than five (5) acres.
- F. Location of topsoil stockpile area(s).
- G. Areas where natural vegetation will be left and where plantings will be made to screen the extraction operation from view.
- H. Slopes and vegetation for protecting adjacent structures.
- I. Location of any test pits or borings and observation wells documenting the seasonal high water table.
- J. Proposed disposal method of stumps, grubblings, and other debris.
- K. Plan(s) and schedule for reclamation. A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of subsection E, Reclamation, below.
- L. For pits of five (5) acres or more, at least one cross-section along the axis of the pit and another cross-section at a right angle to it. The cross-section diagrams should show the existing grade, the proposed final grade including the maximum depth of elevation, depth to the ground water, and the stratigraphy of the surficial deposits at the site.
- M. Location of any significant wildlife habitats as designated by the Maine Department of Inland Fisheries and Wildlife and areas listed under the Maine Department of Economic and Community Development's, Natural Areas Program.

4. Review Criteria and Standards.

- A. The area of a working pit shall not exceed four (4) acres.
- B. Existing vegetation within a buffer strip shall not be removed. If vegetation within the buffer strip has been removed or disturbed by activities related to the operation of the extraction operation, that vegetation must be reestablished as soon as practicable. A buffer strip of not less than seventy-five (75) feet shall be maintained between the location of any extraction of materials and all property lines.
- C. A 300 foot separation shall be maintained between any area to store petroleum products and any private drinking water wells.
- D. A 200 foot separation shall be maintained between any excavation and any private drinking water supply in existence prior to that excavation.
- E. A 1000 foot separation shall be maintained between any excavation and any public drinking water supply.
- F. There shall be no storage or dumping on the pit of any substances or materials that could produce harmful leachate.
- G. No oiling of access and haul roads is permitted.
- H. Excavation shall not occur within five (5) feet of the seasonally high water table.
- I. Excavation activities shall not occur below road level within 25 feet of a road right-of-way and shall maintain a 2.5 percent slope away from the right-of-way, except that excavation activities may occur below road level within 25 feet of a private road right-of-way with the written permission of the owner.
- J. No part of any extraction operation, including drainage and run-off control features, shall be permitted within one hundred (100) feet of the normal high water line of a Great Pond, and within seventy-five (75) feet of the normal high water line of any other waterbody, tributary stream, or the upland edge of a wetland.

- K. Erosion and sedimentation control for access roads shall be conducted according to best management practices adopted by the SCS.
- L. There may not be more than two (2) acres of stockpiles within the working pit at any time.
- M. Noise levels shall not exceed applicable noise limits as adopted by the MDEP.
- N. The hours of operation at the site shall conform to the time between sunrise and sunset at Caribou, ME.
- O. In keeping with the purposes of this Ordinance, the Planning Board may impose other conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

5. Reclamation.

Within twelve (12) months of the completion of extraction operations, or the expiration of a CEO permit, or which operations shall be deemed complete when less than one thousand (1000) cubic yards of materials are removed in any consecutive twelve (12) month period, the site shall be reclaimed in accordance with a plan approved by the CEO. The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Such plan shall include:

- A. A vegetative cover by seeding shall be established within one year of the completion of excavation. Vegetative cover shall be declared acceptable after one year if: (1) the planting of trees and shrubs results in a permanent stand or stand capable of regeneration and succession, sufficient to ensure a 75 percent survival rate; and (2) the planting of all materials results in permanent 90 percent ground coverage.
- B. All structures and facilities shall be removed and, once no longer in productive use, all access roads, haul roads, and other support roads shall be reclaimed.
- C. The final graded slope shall be two to one (2.5:1) slope or flatter.
- D. Reclamation of the pit shall not be made with any substance or material that could either have a harmful leachate or create an impermeable base.
- A. All affected lands shall be reclaimed within one (1) year.

Sec. 13-740 Mobile Homes.

1. General Requirements.

- A. All mobile home units to be relocated to within the City from outside of the City shall be placed on a permanent foundation, have residential siding, and a pitched roof covered with shingles or other materials approved by the CEO. These design requirements shall not be applied to prevent relocation of units within the City constructed prior to June 15, 1976 that were legally sited in the City.
- A. It shall be unlawful to locate any mobile home for any residential purpose anywhere in the City, except in an authorized mobile home park, unless a mobile home permit has been issued in conformity with this Ordinance. Any application for a mobile home permit shall be in writing and in duplicate, signed by the applicant. Such applications shall include such information as lawfully may be required by the CEO and shall include a site plan of suitable scale showing:
 - 1. The shape, size, and location of the lot on which the mobile home is to be placed.
 - 2. The make, model, year, serial number, length and width, number of bedrooms, location of kitchen and cost of mobile home.
 - 3. Any building already on the lot.
 - 4. Set back lines of buildings on adjoining lots; and
 - 5. Any other information needed by the Building Inspector, CEO, Planning Board, or Board of Appeals to determine whether the provisions of this Section are being observed.
- B. A mobile home may be permitted on the site of a construction project for not more than two (2) consecutive six-months periods provided that a special permit is issued by the Planning Board for each six month period. Such permit may only be issued if the Board is satisfied that:
 - 1. The mobile home is a necessary convenience for the construction project and is clearly subordinate to such project; and

2. No health hazards or problems of sanitation will be caused by improper disposal of sewage from the mobile home.
- D. The CEO may issue a special permit for the use of a mobile home for a temporary office for up to three (3) months in Districts where offices are permitted or at construction sites anywhere in the City.
- B. A recreational vehicle or camper shall in no case be used as a mobile home and any recreational vehicle in use as a temporary dwelling shall be stationed only in an area where permitted. An RV or travel trailer where not in use may be stored on the premises of the owner.

3. Mobile Homes Built Before June 15, 1976, or Not Built According to the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Chapter 70.

The following standards shall apply to all mobile homes built before June 15, 1976, or not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Chapter 70, to be located on an individual lot or in a mobile home park in the City.

A. Exit Facilities - Exterior Door.

1. Required egress doors shall not be located where a lockable interior door must be used in order to exit.
2. Mobile homes shall have a minimum of two (2) exterior doors not less than 12' from each other as measured in any straight line direction regardless of the length of the travel between doors. One of the required doors must be accessible from the doorway of each bedroom without traveling more than 35'.
3. All exterior swinging doors shall provide a minimum of 32" wide by 74" high clear opening. All exterior sliding glass doors shall provide a minimum of 32" wide by 72" high clear opening. Locks shall not require the use of a key from the inside.

B. Exit Facilities - Egress Windows and Devices.

Mobile homes shall have the following emergency egress facilities:

1. Every room designed expressly for sleeping purposes, unless it has an exit door, shall have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of NFPA Life Safety Code 101, fourth edition.
2. The bottom of the window opening shall not be more than 44" above the floor.
3. Locks, latches, operating handles, tabs, and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54" from the finished floor.

C. Interior Doors.

Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

D. Fire Detection Equipment.

1. At least one operating smoke detector shall be installed in the home in the following locations:
 - a. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door, unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side and bedroom side. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.
 - b. When located in hallways, the detector shall be between the return air intake and the living area.
 - c. The smoke detector shall not be placed in a location which impairs its effectiveness.

- d. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985.
- e. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall 6" to 12" below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 6" to 12" below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceilings).

E. Flame Spread. (from the NFPA Life Safety Code 101, fourth edition)

- 1. Ceiling interior finish shall not have a flame spread rating exceeding 75.
- 2. Walls or ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not to exceed 25. Sealants and other trim material 2" or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
- 3. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
- 4. Kitchen cabinet doors, countertops, back splashes, exposed bottoms, and end panels shall have a flame spread rating not exceeding 200.
- 5. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread rating of 200.
- 6. No burner of a surface cooking unit shall be closer than 12" horizontal to a window or an exterior door.

F. Kitchen Cabinet Protectors.

- 1. The bottom and sides of combustible kitchen cabinets over cooking ranges, to a horizontal distance of 6" from the outside edge of the cooking range, shall be protected with at least 5/16th" thick gypsum board or equivalent limited combustible material. One-inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cook tops shall be protected by a metal hood with not less than a 3" eyebrow projecting horizontally from the cabinet face. The 5/16th" thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8th" enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.
- 2. The metal hood shall not be required if there is an oven installed between the cabinet and the range.
- 3. Ranges shall have a vertical clearance above the cooking top of not less than 24" to the bottom of combustible cabinets.

G. Carpeting.

Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located under the furnace or water heater.

H. Roof Loads.

All homes with roofs added after construction shall require a Maine Registered Professional Engineer to inspect the roof to determine that the roof can withhold seventy (70) pounds per square foot.

I. Heating and Fuel Burning System.

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify that the heating and fuel system meets the requirements of NFPA-31 Installation of Oil Burning Equipment as adopted by the Board, or other applicable standards.

J. Electrical System.

A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system is safe and meets the requirements of the National Electrical Code in effect at the time the home was constructed.

Sec. 13-745 Confined Feeding Operations.

1. All confined feeding operations must be constructed and operated in accordance with all applicable rules, laws and regulations including, but not limited to, rules adopted by the Maine Department of Agriculture, Food and Rural Resources and any other governmental entity with jurisdiction over such operations.
2. Confined feeding operations which cause unreasonable noise, odor and/or pollution of ground water or any waterbody shall not be permitted.
3. Confined feeding operations that utilize a lagoon or a waste storage pond, or both, shall meet the following setback requirements:
 - A. For a confined feeding operation with a capacity of up to 100 animal units at any one time, the minimum separation distance required between a lagoon and a waste storage pond and the boundary of any real property owned by another person is 1 mile. The minimum separation distance required between an agricultural facility and the boundary of any real property owned by another person is 1 mile.
 - B. The minimum separation distance between a lagoon and a waste storage pond and any public or private drinking water well is 1 mile.
 - C. The minimum separation distance required between a lagoon and a waste storage pond and any water body is $\frac{1}{2}$ mile. The minimum separation distance required between an agricultural facility and any water body is $\frac{1}{2}$ mile.
 - D. The minimum separation distance required between a ditch or swale that drains directly into any water body and any confined feeding operation is $\frac{1}{2}$ mile.
4. Confined feeding operations which exceed 100 animal units of normal production animal live weight at any one time are strictly prohibited.
5. A new confined feeding operation or expansion of an established confined feeding operation may not be located in a floodplain as defined by the Flood Insurance rate maps for the City of Caribou.
6. If a lagoon or a waste storage pond, or both, breaches or fails in any way, the owner or operator of the confined feeding operation immediately shall notify the Code Enforcement Officer.
7. A person may not cause, allow or permit emission into the ambient air any substance or combination of substances in quantities that create an undesirable level of odor unless preventive measures are taken to abate or control the emission to the satisfaction of the Council. When an odor problem comes to the attention of the Council through field surveillance or specific complaints, the Council shall determine if the odor is at an undesirable level by considering the character and degree of injury to or interference with:
 1. The health or welfare of the people;
 2. Plant, animal or marine life;
 3. Property; real and otherwise; and
 4. Enjoyment of life or use of affected property.
8. The City Council may require the following abatement or control practices after review and recommendation by the Caribou Planning Board.
 1. Removal or disposal of odorous materials;

2. Methods of handling and storing odorous materials in order to minimize emissions;
 3. Prescribed standards in the maintenance of premises to reduce odorous emissions; and
 4. Use of the best available control technology to reduce odorous emissions.
9. After determining that an undesirable level of odor exists, the Council shall require remediation of the undesirable level of odor, which may require the removal of all animals and odorous materials within 30 days of receipt of notice or the revocation of a permit issued hereunder.
- 10-A. Permits for confined feeding operations are for a term of one year only and must be renewed annually. A renewal permit shall not be issued unless the confined feeding operation meets all of the standards in effect at the time of renewal. If the confined feeding operation is not in operation or production for 2 or more consecutive years, a new permit must be obtained.
- 10-B. POLLUTION INSURANCE
- An applicant must show proof of pollution liability insurance in the amount of at least \$1,000,000.00 to protect neighboring properties in the event of ground water and/or surface water contamination caused by the confined feeding operation. A certificate of insurance shall be provided with a one year prepaid insurance policy. If the owner or operator of the confined feeding operation fails to maintain this insurance coverage, all confined feeding operations shall cease until satisfactory evidence of insurance is provided.
11. Nothing in this section prohibits an individual or group of persons from bringing a complaint against a confined feeding operation.
12. CONFINED FEEDING OPERATION TERMS

For purposes of this Ordinance, the following terms have these definitions:

1. CONFINED FEEDING OPERATION

A use whereby animals are confined and fed or maintained in an agricultural ~~facility~~ for a total of 120 days or more in a 12 month period. Structures used for the storage of animal waste from animals in their use are also part of the confined feeding operation. Two or more confined feeding operations under common ownership or management are considered to be a single confined feeding operation if they are adjacent or utilize a common system for animal waste storage or reside on contiguous land under same ownership.

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2. AGRICULTURAL FACILITY

A lot, building or ~~structure~~ that is used for the commercial production of animals in a confined feeding operation, including any land used for the spreading of animal waste.

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3. LAGOON

An impoundment used in conjunction with a confined feeding operation, the primary function of which is to store or stabilize, or both, organic wastes, wastewater and contaminated runoff shall be covered per requirement of the site design review ordinance of the City of Caribou.

4. WASTE STORAGE POND

A structure used for impounding or storing manure, wastewater and contaminated runoff as a component of an agricultural waste management system. Waste is stored for a specified period of time, one year or less, and then the pond is emptied and shall be covered per requirement of the site design review ordinance of the City of Caribou.

5. ANIMAL UNIT

Means 1,000 pounds of animal body weight.

Sec. 13-750 Performance Guarantees.

1. Types of Guarantees.

With submittal of the application for Final Plan approval and required by the CEO or Planning Board, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs. The conditions and the amount of the performance guarantee shall be established by the CEO after reviewing the cost estimates for improvements submitted with the Final Plan by the applicant and the review of those estimates for accuracy by the appropriate City Officials, departments, utilities, and/or agencies.

- A. Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the "City of Caribou", the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the City of Caribou shall be named as owner or co-owner, and the consent of the City shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the City has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.
- B. Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the City. The bond documents shall specifically reference the application for which approval is sought.
- C. Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for construction and may not be used for any other project or loan.
- D. Phasing of Development. The CEO or Planning Board may approve plans to develop an application in separate and distinct phases. This may be accomplished by limiting final approval to those areas abutting that section of any proposed road which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of development in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- E. Conditional Agreement. The CEO or Planning Board may provide for the applicant to enter into a binding agreement with the City in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan, on the condition that:
 - 1. (Subdivisions only) No more than four (4) lots may be sold or built upon;
 - 2. It is certified by the Planning Board that all of the required improvements have been installed in accordance with all local Ordinances and the regulations of the appropriate utilities; or
 - 3. A performance guarantee, acceptable to the City, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be indicated on the Final Plan which is recorded at the Aroostook County Registry of Deeds, Northern Office. Release from the agreement shall follow the procedures for release of the performance guarantees contained herein.

2. Contents of Guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the applicant, and a date after which the applicant shall be in default and the City shall have access to the funds to finish construction.

3. Release of Guarantee.

Prior to the release of any part of the performance guarantee, the City Council shall determine to its satisfaction, in part upon the report of the Planning Board and the CEO and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

4. Default.

If, upon inspection, the CEO finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall so report in writing to the City Manager, City Council, the Planning Board, and the applicant or developer. The City shall take any steps necessary to preserve the City's rights.

5. Extension.

The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the applicant can demonstrate, to the satisfaction of the Planning Board and the City Council, good cause for such extension. Such recommendation shall be referred to the City Council for official action.

Sec. 13-760 Daycare Facilities.

As of January 11, 2012, newly established Daycare Facilities shall only be allowed in the R1, R2, R3, RC-2, C1 and C2 residential and commercial zones following Planning Board review and approval. All Daycare Facilities licensed by the State of Maine and operating prior to the adoption of this ordinance, January 11, 2012, are considered Previously Existing and exempt from the requirements of this ordinance. Any previously existing Daycare Facility that discontinues operations for a period of one (1) year that requests to reopen as a Daycare Facility must meet the current Daycare Facility requirements of this ordinance.

Daycare Facilities must provide the City of Caribou a copy of the yearly State of Maine License for the daycare, annual update contact information for the operators and employees.

- Licensing:
 - The facility must have an approved and current valid DHHS License, and supply a copy to the City every year.
 - The facility must provide a copy of the State Fire Marshall's inspection and approval report.
 - The facility must provide a copy of the Maine Department of Health & Human Services inspection and report.
- Inspection:
 - The operation of a daycare facility will allow appropriate representative of the municipality to enter the property to inspect such use for compliance with the requirements of the City ordinance.
 - All homes must comply with all building, plumbing, life safety, fire safety, and health codes.
 - The lot size, building size, set back and lot coverage shall conform to the standards of the zoning distance in which it is located unless such structure is a legal nonconforming structure.
 - No portion of the daycare facility shall be located within a 300 foot distance from any potentially hazardous land use, or activity which could pose threat to the safety of the children, staff or other occupancy of the facility.
 - All proposed facilities must be physically inspected for zoning compliance prior to issuance of a Certificate of Occupancy.
- Complaints:
 - If a complaint is received concerning a daycare facility, the code enforcement officer will investigate. If the complaint has merit, the code enforcement officer may revoke or suspend the permit.
- Outdoor Play Area:
 - An outdoor play area, as required by the State, shall be provided for daycare facilities and not be located in the front yard; they must be located in the side and/or rear yards only.

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- The front yard is the area between the front property line and front wall of the structure, including the front wall projection line extending to the side property.
 - Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - The facility shall provide a minimum of seventy-five (75) square feet of outdoor play per child.
 - Outside play areas must be protected by a fence at least four (4) feet in height.
- On-Site Loading/Unloading Area:
 - An adequate on-site loading/unloading area has to be provided which can be easily accessed from the daycare facility without crossing any driveways or streets. These areas may be counted toward the required parking.
 - Police/Fire Department Notification:
 - Daycare facilities must give written notice to local police and fire departments as to the scope of their operation, including the number of children, location of sleeping areas, days and hours of operation.
 - Site Plan:
 - All daycare facilities shall submit a detailed site plan for review and approval by the Code Enforcement Officer before the facility goes into operation.
 - Site plan must show existing or proposed structures and improvements, including landscaping, play areas, parking areas, and the location of structures and improvements on adjunct properties.

Historical Note: Section 13-760 was adopted December 12, 2011.

Sec. 13-770 Wireless Telecommunications Facilities.

Section 1. Title

This Ordinance shall be known as the "Wireless Telecommunications Facilities Ordinance" of Caribou, Maine.

Section 2. Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities.

Section 4. Applicability

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in section 4.1.

4.1. Exemptions

The following are exempt from the provisions of this ordinance:

- A.) Emergency temporary wireless communication facilities for emergency communications by public officials.
- B.) Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- C.) Parabolic antenna. Parabolic antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- D.) Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

E.) Temporary wireless telecommunications facilities in operation not to exceed a maximum of one hundred eighty (180) days per calendar year.

F.) Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

Section 5. Review and Approval Authority

5.1. Approval Required

No person shall construct or expand a wireless telecommunication facility without first obtaining a "Building Permit" from the Code Enforcement Officer (CEO) as required by the City of Caribou's adopted Maine Uniform Building Code, Section 105 of the 2009 International Building Code. Review of the Site Design Application under this ordinance, by the CEO, does not constitute a Building Permit.

A.) Expansion of an Existing Facility and Colocation. Approval by the CEO is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than 20 feet; accessory use of an existing wireless telecommunications facility; or colocation on an existing wireless telecommunications facility.

B.) New Construction. Site Design Review and Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of an existing wireless telecommunications facility that increases the height of the facility by more than 20 feet.

5.2. Approval Authority

In accordance with Section 5.1 above, the CEO shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1. Pre-Application Conference

All persons seeking CEO review or the approval of the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2. Application

All persons seeking review of the CEO or the approval of the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A.) Application for CEO review. Applications for review by the CEO must include the following materials and information:

1.) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.

2.) A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

3.) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

4.) Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.

5.) For proposed expansion of a facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:

a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

- b.) negotiate in good faith for shared use by third parties;
- c.) allow shared use if an applicant agrees in writing to pay reasonable charges for colocation;
- d.) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B.) Application for Planning Board Approval.

A Site Design Review application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

- 1.) Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
- 2.) A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
- 3.) A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
- 4.) A site plan:
 - a.) prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
 - b.) certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
 - c.) a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
- 5.) A scenic assessment, consisting of the following:
 - a.) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
 - b.) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
 - c.) Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
- d.) A narrative discussing:
 - i.) the extent to which the proposed facility would be visible from or within a designated scenic resource,
 - ii.) the tree line elevation of vegetation within 100 feet of the facility, and
 - iii.) the distance to the proposed facility from the designated scenic resource's noted viewpoints.
- 6.) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- 7.) Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

- a.) Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,
- b.) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,
- c.) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - i.) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii.) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii.) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
- d.) For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;
- e.) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access;
- 8.) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
- 9.) A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
 - d.) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
- 12.) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.
- 13.) Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.3. Submission Waiver

The Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4. Fees

A.) CEO Application Fee

An application for CEO review shall include payment of an application fee of \$200.00 (two hundred dollars). The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the City of Caribou to review the application.

B.) Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee of \$500.00 (five hundred dollars). The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application portion of fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the City of Caribou to review the application.

6.5. Notice of Complete Application

Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application, the CEO shall review the application and determine if the application meets the submission requirements. The CEO or Planning Board, as appropriate, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the [Planning Board, Planning Office, Code Enforcement Office, Engineering Department, Police Department, and Fire Department].

If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

If the application is deemed to be complete, the CEO shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

6.6. Public Hearing

For applications for Planning Board approval under Section 5.1(B), a public hearing shall be held within 30 days of the notice of the complete application.

6.7. Application Review

A.) CEO review. Within thirty (30) days of receiving a complete application for approval under section 5.1(A), the CEO shall review and recommend the application go to the Planning Board for Site Design Review, recommend with conditions, or deny the application in writing, together with the findings on which that decision is based. The CEO shall approve the application if the CEO finds that the application complies with the provisions in Section 7.1 of this ordinance.

The CEO shall notify all abutters of the decision to issue a permit under this section. The time period may be extended upon agreement between the applicant and the CEO.

B.) Planning Board Approval. Within ninety (90) days of receiving a complete application for approval under section 5.1(B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within 60 days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

Section 7. Standards of Review

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1. CEO Approval Standards

An application for approval by the CEO under Section 5.1(A) must meet the following standards.

- A.) The proposed facility is an expansion, accessory use, or colocation to a structure existing at the time the application is submitted.
- B.) The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
- C.) The proposed facility increases the height of the existing structure by no more than twenty (20) feet.
- D.) The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable.
- E.) The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

7.2. Planning Board Approval Standards

An application for approval by the Planning Board under Section 5.1(B) must meet the following standards.

A.) Priority of Locations. New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

- 1.) Colocation on an existing wireless telecommunications facility or other existing structure in the following districts, as identified in the [name of municipality] Zoning Ordinance:
- 2.) A new facility on public or private property in an Industrial District, or permitted as an Industrial Use.
- 3.) A new facility on public or private property in a Commercial District, or permitted as a Commercial Use.
- 4.) A new facility on public or private property in a Rural District, or permitted as a Rural Use.
- 5.) A new facility on public or private property in a Residential District, or permitted as a Residential Use.

A.) Location

New wireless telecommunications facilities may be permitted only in the following districts as designated in the Caribou Zoning Ordinance and Land Use Table:

Industrial 1, Industrial 2, Commercial 2, Residential – Commercial 2, Hospital 1 and Residential 3 Zones.

B.) Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:

- 1.) The proposed location complies with applicable municipal policies and ordinances.
- 2.) The proposed facility will not interfere with the intended purpose of the property.
- 3.) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

C.) Design for Colocation. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.

D.) Height. A new wireless telecommunications facility must be no more than 200 feet in height.

E.) Setbacks. A new wireless telecommunications facility must have a minimum set back of 750 feet from any existing residential dwelling or school building. A new or expanded wireless telecommunications facility must be set back one hundred- fifty percent (150%) of its height from all property lines. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement.

F.) Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

G.) Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

H.) Lighting. A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

I.) Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones and subdued hues shall be used.

J.) Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

K.) Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within Caribou, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency.

l.) In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

- a.) The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;
- b.) the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
- c.) the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
- d.) the amount of vegetative screening;
- e.) the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and

f.) the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

L.) Noise. During construction, repair, or replacement of the wireless telecommunications facility or during the operation of a back-up power generator or the testing of a back-up generator or during a power failure, the facility is exempt from existing municipal noise standards. At all other time the facility shall comply with Section 13-700 § 20 Noise dB limits.

M.) Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

7.3. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

- 1.) The owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation.

d.) require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

2.) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

7.4. Standards for Antennas & Equipment installed on or in existing structures.

Wireless telecommunications facilities proposing to locate on existing buildings structures, flagpoles, or utility poles must meet all the following criteria:

(1) Antennas, receivers, lightning rods, guy wires, and any other wireless telecommunications facility equipment shall be attached to an existing building in such a manner as to not project above the roofline, ridgeline, peak, or steeple of the structure as observed from public lands and ways, or from historic sites and buildings. Antennas to be mounted on buildings with a flat roof shall be located at a distance of a 3 to 1 ratio from the edge of the roof based on the height of the antenna. Any application to install an antenna project shall be approved by a Professional Engineer prior to review by the Planning Board.

(2) A wireless telecommunications facility antenna or equipment attached to a building or structure roof shall not contrast with the color, texture, or linear orientation of the roofing materials.

(3) No wireless telecommunications facility equipment shall be mounted on any structure or located on any property that is in violation of the BOCA National Property Maintenance Code, 1996 edition, or any other building code so adopted by the City of Caribou council. Buildings or properties in violation of the Maine Uniform building Code or 2009 Edition of the International building Code or any other building code so adopted by the City Council, or any structure in a dilapidated condition shall be rehabilitated in a manner approved by the planning board prior to the attachment of wireless telecommunications facility equipment.

(4) Wireless telecommunications facility equipment shall be designed to be visually compatible with the texture and color of the background building material.

(5) Mitigation measures of architectural sitting of a wireless telecommunications facility shall conform to the dominant architectural period of the host structure.

(6) Wireless telecommunications facility equipment shall be located on the structure so as to be visually compatible with the rhythm and proportion of voids (windows and doors) and solids (facade) of the background structure.

(7) Ground facilities shall be screened from the street and all adjacent properties in all districts except the industrial district. Buffering shall consist of evergreen vegetation that achieves 90 percent year round visual obstruction from all potential viewer populations at the time of planting, solid wooden fencing, earth mounding, or combination thereof. The planning board may approve a buffer which achieves less than 90 percent visual obstruction where the proposed ground facility is a building and the planning board determines that the location, style, and architectural detailing of the building are visually compatible with other buildings in the immediate vicinity of the site and with the character of the surrounding neighborhood.

(8) Wireless Communications antennas located on or in existing structures are not required to meet the set back requirements of Wireless Communications Facilities Towers.

Section 8. Amendment to an Approved Application

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 5.

Section 9. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

Section 10. Appeals

An appeal of an administrative decision of the CEO or the Planning Board under this ordinance may be brought to the Board of Appeals, as provided by Section 13-810 Appeals, of the Caribou Zoning and Land Use Ordinance. Written notice of an appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal. An enforcement action of the Code Enforcement Officer is not appealable to the Board of Appeals.

Section 11. Administration and Enforcement

The CEO shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Caribou City Council or their authorized agent, are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

Section 12. Penalties

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

Section 13. Conflict and Severability

13.1. Conflicts with other Ordinances

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

13.2. Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Historical Note: Section 13-770 was adopted by the City Council on March 12, 2012; Section 13-770 §7.4 was adopted by the City Council on December 10, 2012.

Sec. 13-800 Administration and Enforcement.

1. General.

- A. The CEO shall administer and enforce these Ordinances. No applications for land use permits shall be accepted unless accompanied by any necessary fees, a copy of the deed to the property in question, a scaled

site plan, and a general narrative of intended work to be submitted by the owner, authorized agent, and/or contractor.

- B. No land use permit or certificate of occupancy shall be issued for the construction, alteration, enlargement, moving, use, or change of use of any land or building unless the CEO determines that all of the requirements have been met and that the development shall conform in all respects to the applicable provisions of these Ordinances and with all other applicable federal, state, and local rules, laws, regulations, and ordinances.
- C. If application is made for a land use permit only, the application shall be accompanied by a fee. The fee shall be computed as follows: 1.) minimum fee: \$5; 2.) \$2 a thousand (\$) for the first \$10,000 of the estimated cost of improvement; and 3.) \$1 per thousand (\$) for every additional thousand (\$) over \$10,000 of the estimated cost of improvement or part thereof. If application is made for certificate of occupancy only, the application shall be accompanied by a fee of twenty-five dollars (\$25).

2. Land Use Permit.

- A. No building or structure shall be erected, altered, enlarged, or moved until a land use permit has been issued by the CEO. Permits shall expire annually on March 31 and may be renewed once. There shall be no additional fee if the original permit was issued within six (6) months prior to the March 31 expiration date. All intended construction and land use as stated in the original permit shall begin within the term of the permit issuance date. All applications for permits shall be in accordance with the applicable provisions of these Ordinances.
- B. Application for a land use permit shall be in writing and contain all information pertinent to the requirements of these Ordinances, including a statement setting forth the intended use of the proposed new, altered, or relocated building. The CEO shall issue the permit if they find, after proper examination of the application, that the building or structure and its intended use will comply with the provisions of these Ordinances.
- C. There shall be submitted with all applications for a land use permit, two (2) hard copies and one (1) digital copy of a site plan drawn to scale showing: the exact dimensions of the lot to be build upon; all buildings, existing and proposed (location, shape, size, and height), setbacks; required off-street parking and loading spaces; existing, proposed, and such additional information as may be necessary to determine and provide for enforcement of these Ordinances. A soil suitability test shall be obtained for construction on land not served by public sewer.
- D. One copy of the site plan shall be returned to the applicant when approved by the CEO who shall have marked such copy approved and attested to same by their signature on such copy together with the permit. The second copy of such application and plans, similarly marked, approved or disapproved, shall be retained by the CEO and shall be kept on file as a public record. Failure of the CEO to issue written notice of their decision within thirty (30) days of the date of filing of the application shall constitute refusal of the permit. A plumbing and electrical permit shall be obtained before a building permit is issued.
- E. If significant progress on construction has not been made within six (6) months from the date the permit was issued, the permit shall expire. Furthermore, all previous building permits issued by the City prior to the passage of this Ordinance shall expire six (6) months from the effective date of this Ordinance, unless significant progress in construction is made within this six (6) month period.

3. Certificate of Occupancy.

- A. No land use shall be changed in use, nor building or structure hereafter completed, altered, enlarged, or relocated, or changed in use until a Certificate of Occupancy has been issued by the CEO, stating that the proposed use complies with other applicable provisions of these Ordinances and with all other applicable federal, state, and local rules, laws, regulations, and ordinances. Any person who sells, leases, or occupies a new building in the City prior to the issuance of a Certificate of Occupancy by the CEO shall be in violation of these Ordinances and is subject to its penalties.
- B. An application for a Certificate of Occupancy shall be applied for at the same time of application for the land use permit. No permit for the excavation, erection, repairs, or alterations to any building shall be issued until an application has been made for a Certificate of Occupancy.
- C. A Certificate of Occupancy shall be required for the following uses:
 - 1. The increase in the number of dwelling units in a building.
 - 2. The establishment of any home occupation.
 - 3. A change in a non-conforming use of land or building.

4. The occupancy and use or change of use of vacant land except for the raising of crops.
5. A change in use of an existing building, whether or not alteration is involved.

- D. Prior to the issuance of the Certificate of Occupancy, the CEO shall check and determine that all requirements under the applicable provisions of these Ordinances and with all other applicable federal, state, and local rules, laws, regulations, and ordinances have been met.
- E. Any person desiring to change the use, but not the structure of the building or structure erected, or the use of the premises, shall apply in writing to the CEO for a Certificate of Occupancy setting forth the new use under the application. The CEO, under finding after examination that such new use complies with the provisions of these Ordinances, shall issue the Certificate of Occupancy applied for.

4. Code Enforcement Officer Shall Act.

The CEO shall act upon all applications for a land use permit or certificate of occupancy within fifteen (15) days after receipt of an application. Notice of refusal to issue the land use permit or certificate of occupancy shall be given to the applicant or their authorized agent in writing within fifteen (15) days of such application stating the reason for refusal.

5. Inspection.

- A. At least three (3) days prior to commencing construction of improvements, the applicant shall notify the CEO in writing of the time when the developer proposes to commence construction of such improvements, so that the CEO can cause inspection to be made to assure that all specifications, requirements, and conditions of approval, if applicable, shall be met during the construction of the improvements, and to assure the satisfactory completion of required improvements and utilities.
- B. If the CEO finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the CEO shall so report in writing to the City Council, Planning Board, applicant, and developer. The City Council shall take any steps necessary to preserve the City's rights.
- C. If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify the improvements, the CEO is authorized to approve minor modifications due to unforeseen circumstances. The CEO shall issue any approval under these Ordinances in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the CEO. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1 percent, etc., the applicant shall obtain permission to modify the plans from the Planning Board.
- D. Prior to the sale of any lot, the applicant shall provide the CEO with a letter from a Maine Licensed Professional Surveyor stating that all artificial monumentation shown on the Plan has been installed.
- E. Upon completion of road construction and prior to a vote by the City Council, a written certification signed by the Director of Public Works shall be submitted to the City Council, certifying that the proposed public way meets or exceeds the design and construction requirements of these Ordinances. The applicant shall be required to maintain all improvements and provide for snow removal on roads and sidewalks until acceptance of the improvements by the City or their control is placed with a lot owners association. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the City Council.

6. Code Enforcement Officer.

- A. It shall be the duty of the CEO to enforce the provisions of these Ordinances. If the CEO shall find that any provision of these Ordinances are being violated, the CEO shall notify the property owner and the person responsible for such violations in writing indicating the nature of the violations and ordering the action necessary to correct it. The CEO shall send a copy of such notice to the City Council and said notice shall be maintained as part of the permanent record. The failure of the CEO to follow the notice procedure set forth within this subsection shall not prevent the City Council from taking any legal action to enforce these Ordinances and to pursue all available legal remedies, including without limitation, injunctive relief, fines, and attorney fees. The CEO shall have the authority to issue a Stop Work Order upon a finding that work has been commenced or completed prior to receipt of all approvals required by these Ordinances or contrary to the terms of an approved site design. The CEO shall order the removal of illegal buildings, structures,

additions, materials, or work being done, or shall take any other action authorized by these Ordinances to insure compliance with, or to prevent violation of, their provisions. Any construction or site work not in conformity with an approved plan and/or permit shall constitute a violation of these Ordinances. Work shall recommence only after such Order has been lifted.

- B. The CEO shall maintain the current addresses and phone numbers of federal and state agencies with which an applicant may want to check to determine what other rules, codes, laws, regulations, or ordinances apply to a proposed development. In addition, the CEO shall maintain a current file of all pertinent local statutes, ordinances, regulations, codes, and plans relating to land-use regulation. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis the CEO shall submit a summary of such record for the shoreland areas as defined to the Director of the Bureau of Land Quality Control within the Maine Department of Environmental Protection.
- C. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The CEO may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances. If consent is denied they should obtain an administrative warrant before entering the property. The CEO may revoke a permit after proper notification and an opportunity for a hearing if it was issued in error or if based on erroneous information.

7. Violations.

- A. The following provisions shall apply to all development plans reviewed and approved by the City.
 - 1. A person, shall not convey, offer, or agree to convey any land in a development which has not been approved by the Planning Board or CEO, whichever is applicable.
 - 2. Any person after receiving approval from the Planning Board or CEO who constructs the development in a manner other than depicted on the approved Plan(s) or amendment(s) or in violation of any condition imposed shall be in violation of these Ordinances.
 - 3. No public utility, water district, sanitary district, grading or construction of roads, grading of lands or lots, construction of buildings, or any utility company of any kind may install services to any development, until a Final Plan of such development shall be duly prepared, submitted, reviewed, approved, and endorsed and unless written authorization attesting to the validity and currency of all local permits required under these Ordinances has been issued. Following installation of service, the company or district shall forward the written authorization to the CEO indicating that installation has been completed to the development.
 - 4. No permit or certificate for a building or use shall be issued unless the development has been approved under these Ordinances and Title 38, §481-490, if applicable.
 - 5. Whenever a development is exempt from MRSA Title 38, §481-490, Site Location of Development, because of the operation of Title 38, §488 (5), that fact must be noted on the Final Plan. The person submitting the Final Plan for recording shall prepare a sworn certificate that must be expressly noted on the face of the Final Plan. This certificate shall:
 - a. Indicate the name of the current property owner;
 - b. Identify the property by references to the last recorded deed in its chain of title and by reference to the development plan;
 - c. Indicate that an exemption from Title 38, §481-490, has been exercised;
 - d. Indicate that the requirements of Title 38, §488, (5), have been and shall be satisfied; and
 - e. Indicate the date of notification of the Department of Environmental Protection under Title 38, §488, (5).

In the case of a subdivision, the exemption is not valid until recorded in the Aroostook County Registry of Deeds, Northern Office. Recording must occur within ninety (90) days of the final subdivision approval or the exemption is void.

- 6. Any person who sells, leases, or conveys for consideration any land, dwelling unit, or building in a development approved under these Ordinances and exempt from Title 38, §481-490, because of the

operation of Title 38, §488, (5), shall include in the instrument of sale, lease, or conveyance a covenant to the transferee that all of the requirements of Title 38, §488, (5), have all been and shall be satisfied.

- B. In addition to "A" above, the following provisions shall apply to subdivisions reviewed and approved by the City.
1. No plan of a division of land within the City which would constitute a subdivision shall be recorded in the Aroostook County Registry of Deeds, Northern Office until a Final Plan has been approved by the Planning Board in accordance with the Subdivision Ordinance contained within these Ordinances. Approval for the purpose of recording shall appear in writing on the recording plan.
 2. A person shall not sell, lease, or otherwise convey any land in an approved subdivision which is not shown on the Plan as a separate lot.
 3. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road upon which the unit is accessed is completed in accordance with applicable standards contained within these Ordinances.
- C. When any violation of any provision of these Ordinances shall be found to exist, the CEO, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of these Ordinances in the name of the City of Caribou. The City Council, or their authorized agent, shall take any steps necessary to preserve the City's rights, such as, but not limited to, entering into an administrative consent agreement for the purpose of eliminating violations of these Ordinances and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use shall result in a threat or hazard to public health and safety or shall result in substantial environmental damage.

8. Fines.

Any person, firm, or corporation being the owner, authorized agent, contractor, or having control or use of any structure or premises who violates any of the provisions of these Ordinances shall upon conviction be fined in accordance with provisions of Title 30-A MRSA §4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the "City of Caribou".

Sec. 13-810 Appeals.

1. Making an Appeal.

- A. An appeal of an administrative decision of the Planning Board or CEO may be taken to the Board of Appeals by an aggrieved party. Such appeal shall be made within thirty (30) days of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

Note: For the purposes of this subsection, an administrative decision does not include enforcement actions. A decision of the CEO to take enforcement action for violations of these Ordinances, or any permit issued pursuant to these Ordinances, is not appealable to the Board of Appeals.

- B. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For a variance appeal the applicant shall submit:
1. A sketch drawn to scale showing lot lines, location of existing building, and other physical features pertinent to the variance request; and
 2. A concise written statement stating what variance is requested and why it should be granted.
- C. Upon being notified of an appeal, the Planning Board or CEO shall transmit to the Board of Appeals all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee of ninety dollars (\$90) to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee paid, the applicant shall pay the balance. The Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days.

Commented [AB1]: Is this enough? We pay \$25 for each board member. Advertising in the newspaper is approximately \$100, costs to mail would be about 60 cents per mailing, and Admin costs would likely be \$50 at a minimum (2 hours staff time)

2. Procedure on Appeal.

- A. At least fourteen (14) days prior to the date of the hearing on such appeal, the Board of Appeals shall cause to be posted in three (3) prominent locations in the City a notice which includes:
 - 1. The name of the person appealing.
 - 2. A brief description of the property involved.
 - 3. A brief description of the decision appealed from, or the nature of the appeal.
 - 4. The time and place of the Board of Appeal's hearing.
- B. At least ten (10) days prior to the date set for hearing, the Board of Appeals shall also cause the City Clerk to give similar written notice to:
 - 1. All abutting property owners of record whose properties lie within 200 feet of the affected property.
 - 2. The person making the appeal, and
 - 3. The Planning Board, the CEO, and any other parties of record.

3. Hearings.

- A. The Board of Appeals may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
- B. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.
- C. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified the Board of Appeals shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing shall continue.
- D. The CEO, or their designee, shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material deemed appropriate for an understanding of the appeal.
- E. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.
- F. The record may be kept open after the hearing by order of the Chair until a date established by the order.

4. Decisions of the Board of Appeals.

- A. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Planning Board or CEO, or to decide in favor of the applicant on any matter on which it is required to pass under these Ordinances, or to affect any variation in the application of these Ordinances.
- B. The Board of Appeals shall decide all appeals in an open session within thirty (30) days after the hearing, and shall issue a written decision on all appeals.
- C. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, their representative or agent, the Planning Board, the CEO, and City Council within seven (7) days of the decision date.
- D. Upon notification of the granting of an appeal by the Board of Appeals, the Planning Board or CEO shall immediately issue a permit in accordance with the conditions of the approval, unless the applicant's proposal requires additional review.
- E. Appeals may be taken within forty-five (45) days from any decision of the Board of Appeals to the Superior Court.
- F. Any Board of Appeals reconsideration of an original decision must be reconsidered and the proceedings completed within thirty (30) days of the vote on the original decision.

- G. The right to relief from the terms of these Ordinances granted by vote of the Board of Appeals in a specific case shall expire if the work or change is not commenced within six (6) months thereafter and if the work or change is not substantially completed within one year.
- H. A second appeal of a similar nature shall not be heard by the Board of Appeals within one year from the date of denial of the first appeal. However, re-appeal may be made to the Board if substantial new evidence shall be found or an error or mistake in law or misunderstanding of fact shall have been found.
- I. The Board of Appeals may impose such conditions and safeguards regarding location, character, fencing, screening, landscaping, or other features as it may deem advisable in furthering the intent and purpose of these Ordinances.
- J. The Board of Appeals, with the advice and assistance of the Planning Board and CEO, shall maintain a current map indicating by means of appropriate symbols, colors, or other notations the locations in which it has taken approving actions.

5. Variances.

The Board of Appeals shall have the power to hear and decide upon appeal a variation from the requirements of the Zoning Ordinance not in contradiction to the public interest in respect to a parcel of land or to an existing building thereon, where a literal enforcement of the Ordinance would result in unnecessary hardship. The Board of Appeals shall consider conditions and safeguards in conformity with this Ordinance in granting any variance by majority vote. The Board of Appeals shall not grant variances for uses forbidden ("NO") in any District indicated on the Caribou Land Use Chart. Variances may be permitted only under the following conditions:

- A. Variances are obtainable only for height, minimum lot size, frontage, structure size, setbacks and open space requirements.
- B. Variances can not, under any circumstances, be obtainable for establishment of any uses otherwise prohibited. Unless, after review by the Planning Board and the City Council, in accordance with the terms of this Ordinance, relief of unnecessary hardship or determine wherein relief may be granted and substantial justice done where conditions and safeguards are appropriate and in harmony, without derogating from the intent or purpose the Zoning Ordinance, but not otherwise. All three (3) Boards (Council, Planning, and Appeals) shall review and concur in the affirmative before a variance is granted for a use prohibited by the Board of Appeals.
- C. The Board shall not grant a variance unless it finds that all of the following criteria are met:
 - 1. That the land in question cannot yield a reasonable return unless a variance is granted. Such hardship may be found by the Board of Appeals where this Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put; and
 - 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
 - 3. That the granting of a variance shall not alter the essential character of the locality; and
 - 4. That the hardship is not the result of action taken by the applicant or a prior owner. Mere inconvenience to the property owner shall not satisfy this requirement.
- C. A disability variance may be granted by the Board of Appeals to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability shall have the same meaning as a physical or mental handicap under Title 5 MRSA §4553.
- E. The Board of Appeals shall limit any variances granted as strictly as possible in order to preserve the terms of the Ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary, to this end.
- F. A copy of all variances granted in Shoreland Areas by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the Board's decision.
- G. If the Board of Appeals grants a variance under this subsection, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and

indicating the fact that a variance, including any conditions on the variance, has been granted and the date of granting, shall be prepared in a recordable form by the Board of Appeals. This certificate must be recorded in the Aroostook County Registry of Deeds, Northern Office by the applicant within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.

- H. The Board of Appeals shall notify the Chair of the City Council and the Planning Board in writing of any variance granted under the provisions of the Ordinance.

6. Stay of Proceedings.

An appeal stays all legal proceedings related to the action appealed from unless the CEO or Planning Board, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal has been filed with the CEO or Board of Appeals, that by reason of facts stated in the certificate a stay would, in the CEO's or Board of Appeal's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the appellant. In such case, the CEO or Board of Appeals, if legally authorized by State law or local ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the City Council for prosecution.

Historical Note: Section 13-810 §1C as amended April 24, 2006.

Sec. 13-820 Planning Board.

1. Appointment.

- A. Planning Board members shall be appointed by the City Council and sworn in by the City Clerk or other person authorized to administer oaths.
- B. The Board shall consist of seven (7) members. Neither a municipal officer nor their spouse may be a member of the Board.
- C. The term of each member shall be three (3) years, except the initial appointments which shall be: 1 for one year, 1 for two (2) years, 1 for three (3) years, 1 for four (4) years, and 1 for five (5) years, respectively.
- D. When there is a permanent vacancy declared, the City Council may within sixty (60) days of its occurrence be required to appoint a person to serve for the unexpired term. A vacancy may be declared by the voting members of the Board upon the resignation or death of any member, or when a member ceases to be a voting resident of the City, or when a member fails to attend three (3) consecutive meetings, or fails to attend at least 75 percent of all meetings during the preceding twelve (12) month period. When a vacancy is declared, the Chair of the Board shall immediately so advise the Council in writing. The Board may recommend to the Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the Council disapproves the recommendation.
- E. Any member can be removed by the City Council in accordance with the Caribou City Charter.
- F. Planning Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

2. Organization and Rules.

- A. The voting members of the Board shall elect a Chair, a Secretary, or other officers as needed, from among its members by a majority vote and create and fill such other offices as it may determine at the annual organizational meeting which shall be held on the first regular Planning Board meeting in January, and the election shall follow immediately thereafter. The term of all offices shall be (1) year(s) with eligibility for reelection.
 1. The Chair shall preside at all meetings and hearings of the Planning Board. The Chair has the authority to appoint all committees, to call all work sessions and to preside over executive sessions.
 2. The Recording Secretary shall be responsible for the minutes and records of the Board, shall keep a record of all resolutions, votes, transactions, correspondences, findings and conclusions of the Board and other duties as may be normally carried out by the secretary. All records shall be deemed public and may be inspected during normal business hours. Any member of the public may obtain a copy of the record from the Board upon payment of the cost of reproduction, and postage.

3. The CEO shall be responsible for the agendas of regular meetings and special meetings with the Chair, distribution of the notice of the meetings and hearings, correspondence of the Board, and other duties as may be normally carried out by the secretary.

B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members, except the member who is being challenged.

C. The Board shall hold at least one regular meeting of the Board each month, unless voted on otherwise by a majority of the board.

D. No meeting of the Board shall be held without a quorum consisting of four (4) members.

E. Planning Board business shall be conducted in accordance with the Maine Revised Statutes Annotated and/or local ordinances.

F. The Board shall adopt rules for transaction of business.

G. The Chair may call a special meeting of the Board.

3. Duties and Powers.

A. The Board shall:

1. Perform such duties and exercise such powers as are provided by ordinance/regulations and charter and the laws of the State of Maine, to include:

- a. The responsibility for the directing and overseeing the activity of the comprehensive planning program;
- b. Reviewing subdivision proposals;
- c. Facilitating the interpretation of land use ordinances;
- d. Administering and issuing permits pursuant to land use ordinances;
- e. Projecting a course, through community planning, for the City's future;
- f. Undertaking duties to conduct community planning activity;
- g. Conducting a municipal planning program;
- h. Seeing that all Planning Board members have an obligation to act reasonably and promptly; and
- i. Facilitating in obtaining public participation, public relations, and citizen involvement.

B. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

4. Meeting Organization.

A. Regular Meetings.

1. Regular meetings of the Planning Board will be scheduled during the Annual Meeting. The meeting shall be at the Caribou Municipal Building or other suitable meeting place. The Chair may schedule special meetings on 24 hours notice to the Planning Board members, City Manager, City Council Chair, CEO, and the media. If there is no business scheduled at least seven (7) calendar days before the meeting the CEO, may cancel the meeting and shall inform the Planning Board, City Manager, and the media of such.

2. All meetings shall be open to the public.

3. No official business may be conducted without a quorum present. A quorum shall consist of four (4) members. It shall not include anyone who can not participate due to a conflict of interest. "*Conflict of interest*" means direct or indirect pecuniary interest, which shall include primary benefit to any member of the person's immediate family, their employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member, by reason of their interest, is placed in a situation of temptation to serve their own personal interest, instead of the public's interest. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present, except the member challenged.

4. In the event a quorum is not present, the Board members are authorized to request that the Chair reschedule the meeting to another date and adjourn the meeting. If the date is other than a regular meeting date the

Corresponding Secretary shall have the responsibility of providing adequate notice to the Board members, City officials, and the general public.

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5. All comments addressed to the Board shall be made through the Chair.
6. All matters shall be decided by a roll call vote. A majority of the entire Board's voting members is needed to pass a motion. When a motion results in a tie vote the Chair of the Board shall vote to break the tie.
7. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with.

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B. Agendas.

1. ~~The format of the agenda may be set by staff.~~
2. Agendas shall be posted in the City Office and mailed to the Board members at least ~~three (3)~~ days before the meeting.
3. New applications shall be received at the City Office's, Planning and Code Enforcement Office, no later than ten (10) days to the meeting and shall be placed on the next available slot for new applications on the Board's agenda, and the applicant so notified of the date and time. At that initial meeting the Board shall make written findings whether the application is complete, and take all necessary steps to notify the applicant of the Board's decision.

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Deleted: Regular meeting agendas shall follow the following format:¶
a. . Call to order and determine the presence of a quorum. . ¶
b. . Public Hearing (if any is scheduled)¶
c. . Minutes of the previous meeting and correspondence. . ¶
d. . Old business.¶
e. . New business. ¶
f. . Other.¶
g. . Adjournment.

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C. Work Sessions.

1. The Chair may, with the approval of the majority of the Board, call work sessions for the purpose of updating the Comprehensive Plan, Subdivision Ordinance, Zoning Ordinances, Planning Board by-laws, and other information work items relating to the Board's Activities, providing that the public is notified. A quorum shall be present to conduct any business.
2. Work sessions are open to the public. The general public shall be barred from addressing the Board, unless a majority of the Board permits the public to speak.

D. Executive Sessions.

1. ~~No topics may be discussed in executive session unless expressly authorized by Maine Statutes Title 1 Section 405.~~
2. Within the Executive Session it shall be the Chair's responsibility to ensure that only that business for which the session was called will be discussed, and no official action will be taken.

Deleted: No other matters may be considered in that particular Executive Session.¶
1. . Upon the vote of at least 3/5 of the Board members, present and voting, the Board may call for an Executive Session.

5. Hearings.

- A. The Board, by majority vote at a regular or special meeting, may schedule a Public Hearing on an application within the time limits established by state law or local ordinance.
- B. The Board shall cause notice of the date, time, and place of such hearing, the location of the proposed building or lot, and the general nature of the question involved, to be given to the person making application and to be posted in three (3) prominent locations throughout the City at least seven (7) days prior to the hearing. The Board shall also cause notice of the hearing to be given to the City Council. The owners of the property abutting that property, or impacted upon, for which the application is taken shall be notified by mail at least seven (7) days prior to the date of the hearing.
- C. The Board shall provide, as a matter of policy for exclusion, irrelevant, immaterial, or unduly repetitious evidence.
- D. Order of Business at a Public Hearing.
 1. The Chair calls the hearing to order and determines whether there is a quorum.
 2. The Chair then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed.
 3. The Board decides whether the applicant has sufficient right, title, or interest to appear before the Board.
 4. The Board determines whether it has jurisdiction over the application.
 5. The Board determines which individuals attending the hearing are "interested parties". "Interested Parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners, property owners directly impacted by the application, and those who might be adversely affected by the Board's decision. Parties may be required

by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. The City Council and the CEO shall automatically be made parties to the proceeding. Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing, and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency, or other legal entity for the purpose of the hearing.

6. The Chair gives a statement of the case and incorporates into the record correspondences and reports filed with the Board prior to the hearing. This material shall be available for public inspection.
7. The applicant is given the opportunity to present their case without interruption.
8. The Board and the interested parties may ask questions of the applicant through the Chair.
9. The interested parties are given the opportunity to present their testimony, starting with proponents followed by opponents. The Board may call its own witnesses, such as the CEO.
10. The applicant may ask questions of the interested parties and Board witnesses directly.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All interested parties shall be notified of the date, time, and place of the continued hearing, and the reasons for the continuance.
14. Upon such request made prior to or during the course of the hearing, the Chair may permit persons participating in any hearing pursuant to these by-laws to file written statements with the Board for inclusion in the record after the conclusion of the hearing, within such time and upon such notification to the other participants as the Chair may require.
15. Board members and its consultants have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized. The Board may waive any of the above rules upon good cause shown. Any participant or other member of the public may obtain a copy of the record from the Board upon payment of the cost of transcription, reproduction, and postage.

6. Decisions.

- A. Decisions by the Board shall be made within the time limits established by state law and local ordinances and regulations.
- B. The final decision on any matter before the Board shall be issued as a written order signed by the Chair. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearing shall constitute the record. All decisions shall become a part of the record and shall include a specific statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law, or discretion presented and the appropriate order, relief or denial therefore. At a minimum, the record should specifically state that the applicant has/has not met all applicable state statutory requirements, all applicable City ordinances, and all applicable City regulations, and those legal documents shall be specifically referenced.
- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance, or regulation as well as by community goals and policies as specified in a comprehensive plan, if any, and by the findings of the Board in each case.
- D. Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, their representative or agent within fourteen (14) days of being rendered.
- E. Decisions of the Board shall be immediately filed in the office of the City Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

7. Appeals.

Appeal of the decision of the Planning Board shall be heard by the Board of Appeals.

Historical Note: Section 13-820 §1b, 1c, 2A(1), 2b, 2c, 2f as amended March 4, 2008; Section 13-820 4(A)(1) & Section 13-820 4(A)(3) as amended by City Council April 8, 2013.

Sec. 13-830 Board of Appeals.

1. Establishment and Administration.

The Board of Appeals is hereby established. The word "Board," when used in this Section, shall be construed to mean the Board of Appeals. The Board use shall consist of five (5) members of qualified persons with legal, certifications in zoning, or other applicable qualifications to hear administrative appeals. Appointment to the Board shall be by the City Council for an indefinite period of time providing the qualification of appointment remains. Board members may be removed by the City Council in accordance with the Caribou City Charter. The members of the Board shall receive a fee of \$25 per meeting or appeals plus mileage as set annually by the City Council for their services while under appointment. Absence of a member from three (3) consecutive meetings without written explanation shall be construed to be a resignation from the Board and shall require filling of the vacancy by action by the City Council. A vacancy shall be filled for the unexpired term only. Neither a municipal officer nor his/her spouse may be a member of the Board.

Historical Note: Section 13-830 as amended October 12, 2011.

Sec. 13-831 Board of Appeals Bylaws Provisions

1. Meetings

1. The regular meeting of the Board shall be held as necessary.
2. Special meetings of the Board may be called by the Caribou Code Enforcement Officer or City Manager. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board, the City Council, the Planning Board, City Manager and the Code Enforcement Officer.
3. ~~The Board may set an agenda as they deem necessary.~~
4. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. The Board shall not hold executive sessions except as permitted by the Freedom of Information Act.
5. All meetings will be conducted under Robert's Rule.

2. Voting

1. A quorum shall consist of three (3) members of the Board.
2. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the chairperson to call a special meeting for a subsequent date.
3. All matters shall be decided by a show of hands vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of those members present and voting, by in no case less than three (3) affirming votes.
4. A vote or by a lesser number than the required majority shall be considered a rejection of the application under consideration.
5. If a member has a conflict of interest, that member shall not be counted by the Board in establishing the quorum for the matter in which he or she has a conflict.

3. Reconsideration

1. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision **within 30 days** of its prior decision. The Board may conduct additional hearings and receive and review additional evidence and testimony.
2. Reconsideration should be for one of the following reasons:
 - a. The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - b. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

Historical Note: Section 13-831 was added February 11, 2008 and amended October 12, 2011.

Sec. 13-840 Schedule of Fees, Charges, and Expenses.

Deleted: The order of business at regular meetings of the Board shall be as follows: (a) roll call; (b) reading and approval of the minutes of the preceding meeting; (c) action on held cases; (d) public hearing (when scheduled); (e) other business; (f) adjournment.

The City Council shall establish annually, on the advice of the Planning Board and CEO, a schedule of fees, charges, and expenses for matters pertaining to these Ordinances. The schedule of fees shall be posted in the City Office, and may be altered or amended by the City Council. Until all applicable fees, charges, and expenses have been paid in full by the applicant, no action shall be taken on any application or appeal.

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Sec. 13-850 Amendments.

1. Initiation.

An amendment to these Ordinances may be initiated by:

- A. The Planning Board, by majority vote of the Board;
- B. City Council through a request to the Planning Board;
- C. An individual, through a request to the Planning Board; or,
- D. Written petition to the City Council of a number of voters equal to at least 10 percent of the number of votes cast in the City at the last gubernatorial election.

2. Procedure.

- A. Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed by other than the City Council or the Planning Board, a fee of ninety (\$90) dollars shall accompany the proposal to cover the costs of hearings and advertisements.

3. Adoption of Amendment.

- A. Within thirty (30) days of receiving an amendment, the Planning Board shall hold a public hearing on the proposed amendment, and unless the amendment has been submitted by the City Council or by a petition, the Board shall vote whether to forward the amendment to the City Council. The Board shall make a written recommendation regarding passage to the City Council prior to any action on the amendment by the City Council.
- B. The City Council shall hold a public hearing on the proposed amendment. Notice of the hearing shall be posted at three (3) prominent locations throughout the City at least seven (7) days prior to the hearing. The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the City Clerk's office shall be adequate notice.
- C. An amendment to these Ordinances may be adopted after a public hearing by:
 - 1. A majority vote of the City Council if the proposed amendment is recommended by the Planning Board; or
 - 2. Two-thirds (2/3) majority vote of the City Council if the proposed amendment is not recommended by the Planning Board.

4. Repetitive Petitions.

No proposed change in these Ordinances which has been unfavorably acted upon by the City Council shall be considered on its merits again by the City Council within one (1) year after the date of such unfavorable action, unless adoption of the proposed change is recommended by unanimous vote of the Planning Board.

Historical Note: Section 13-850 §2A as amended April 24, 2006.