



## *City of Caribou, Maine*

*Municipal Building*  
25 High Street  
Caribou,  
ME 04736

*Telephone* (207) 493-3324  
*Fax* (207) 498-3954

### **AGENDA** **Caribou Planning Board** **Special Meeting** **Tuesday, November 24, 2020 at 5:30 p.m.** **City Council Chambers**

- I. Call Meeting to Order
- II. Approval of minutes from the October 22, 2020 Planning Board meeting. Pgs. 2-5
- III. Public Hearing Continuance from Thursday November 12, 2020 Caribou Planning Board Meeting:
  - a. Rezoning Request at 31 Herschel Street, Map 31 - Lot 17 and related area from C-1 (High Density Commercial District) to R-2 (Residential Single and Multi-Family Dwelling District). Pgs. 6-8
  - b. To consider a requested amendment to Section 13-700 §27 of Caribou Code; Sewage Disposal allowing temporary private systems. Pgs. 6 & 9-16
  - c. To consider an amendment to 13-700 §39 of Caribou Code; Addressing Medical Marijuana related facilities. Pgs. 6 & 17-22
- IV. Possible action for pending amendments.
- V. Adjournment



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www.cariboumaine.org*

### **Caribou Planning Board Meeting Minutes Thursday, October 22, 2020 @ 5:30 pm City Council Chambers**

**Members Present:** Robert White, Frank McElwain, Amanda Jandreau, Drew Ayer, Dave Corriveau, Dan Bagley and Christine Solman

**Others Present:** Ken Murchison –CEO/Zoning Administrator, Dennis Marker –City Manager, James Bacon and Denise Lausier –Executive Assistant to the City Manager

**I. Call Meeting to Order** –The meeting was called to order at 5:30 pm.

**II. Approval of Minutes from the August 13, 2020 Planning Board Meeting.** – Frank McElwain moved to approve the minutes; seconded by Drew Ayer.

Roll call vote.

Amanda – yes; Drew – yes; Dave – yes; Robert – yes; Dan – yes; Frank – yes; Christine – yes  
Motion carried with all in favor.

**III. Aroostook Renewables, LLC, Ratify Amendments to Approved Site Design Application.** – Chairman White stated it was being proposed to change the construction dates for the solar development that the Board approved at the last meeting. The change of dates is basically to satisfy long term requirements to get people to invest in a project this size. Chairman White asked the Board to ratify the change of dates for this development.

Dave Corriveau moved to ratify the change of dates; seconded by Frank McElwain.

Roll call vote.

Christine – yes; Frank – yes; Dan – yes; Robert – yes; Dave – yes; Drew – yes; Amanda – yes  
Motion carried with all in favor.

**IV. New Communications –**

**a. Request for Rezoning of 31 Herschel Street Map 31, Lot 17 from C-1 to R-2.** – CEO Ken Murchison explained that he received a request for a rezone at 31 Herschel Street from Mr. Kelly. CEO Murchison looked at the area and talked with a landowner in the same neighborhood who also wants to rezone. It is not the City's desire to spot zone, but to look at the area.

Discussion on desire for apartments in the area, the businesses in the area relating to the R-2 zone and that a Mixed-Use zone would best fit the need. Board consensus for the area is Mixed-Use zone. Chairman White stated that it will take some time but they could incorporate this area into Mixed-Use zone in the re-write of the Zoning Code.

CEO Murchison stated that as they move forward with Land Use and the Comp Plan, the Mixed-Use zone will be discussed. There are other areas on Main Street, Sweden Street and High Street that have the same issues.

CEO Murchison also stated that Mr. Kelly has been asked to not put in any more apartments on the first floor in that building.

Motion made by Dave Corriveau to table this item; seconded by Christine Solman.

Roll call vote.

Amanda – yes; Drew – yes; Dave – yes; Robert – yes; Dan – yes; Frank – yes; Christine – yes  
Motion carried with all in favor.

- b. Requested Code Amendment pertaining to temporary subsurface wastewater disposal systems.** – CEO Ken Murchison explained there has been an issue at 44 Washburn Street with property owned by James Bacon. Mr. Bacon's lawyer came up with sample language for City ordinance. CEO Murchison explained that an old pipe collapsed between the foundation and the edge of the road. The sewer main is fourteen feet deep and would need to go around the storm drain and communications cable, which is cost prohibitive to do, so they are seeking other efforts.

Mr. Bacon explained that he looked at a private sub surface system, but it was denied by the Licensed Plumbing Inspector and State code. The appeals process was denied, no response from Caribou Utilities District. CEO Murchison stated this is a temporary solution while they come up with a more permanent solution.

Amanda Jandreau questioned where the public utility ends. CEO Murchison explained it is seventy feet from the building and that from the foundation to the main line is at the expense of the owner. Washburn Street would need to be shut down in order to do the work.

Mr. Bacon explained that this has been going on since April. He purchased a house, refurbished it and the sewer backed up in March. He had it steamed twice and it got worse. The pipe is deteriorated, the main line is on the other side of the street. The street would need to be shut down in order to do the work. Some contractors won't touch it. Mr. Bacon had one contractor quote him a price of \$30,000-\$50,000. A system was designed and he had a contractor to do it, but he couldn't get a permit.

Dave Corriveau stated that Tim Todd has a horizontal unit, could punch a 2" line with a pump station. Amanda Jandreau said with a temporary holding tank that pumps out.

Dan Bagley questioned State statute. City Manager Dennis Marker stated that a temporary holding tank or septic is allowed under State statute. LPI can grant a one-year temporary situation. If going to attach to the main line, it is not contradicting or going against State code. The City is more restrictive than State code.

Frank McElwain asked if the main line was failing, Mr. Bacon answered that it was not.

CEO Murchison stated that he would like the proposed language to be closer to State code. Discussion on preparing the wording for the next meeting and to hold a public hearing. Manager Marker and CEO Murchison will work on proposed language.

Motion made by Dave Corriveau to schedule a public hearing for the next Planning Board meeting; seconded by Amanda Jandreau.

Roll call vote.

Christine – yes; Frank – yes; Dan – yes; Robert – yes; Dave – yes; Drew – yes; Amanda – yes  
Motion carried with all in favor.

- c. **Draft Medical Marijuana Ordinance revisions.** – CEO Murchison explained there is a request for a retail store in town and the City Code does not address this. Currently the Code addresses a non-profit dispensary, need to add retail.

Discussion on differences between dispensaries and retail stores, as well as dispensaries non-profit, caregivers non-profit, caregiver retail and recreational retail.

Dan Bagley moved to hold a Public Hearing at the next Planning Board meeting to discuss and approve language for medical marijuana; seconded by Drew Ayer.

Roll call vote.

Amanda – yes; Drew – yes; Dave – yes; Robert – yes; Dan – yes; Frank – yes; Christine – yes  
Motion carried with all in favor.

Manager Marker clarified specific to related facilities.

#### V. **Staff Report; CEO Ken Murchison –**

- a. **Blight Initiative and Demolition (110 Washburn Street)** – Blight Toolkit has been published. 110 Washburn Street has been town down by Public Works.
- b. **Daughters International Self Storage** – Met with Mr. Belair from DEP and looked at the site. Drainage is adequate.
- c. **412 Access Highway (New Court Date)** – New court date of November 5<sup>th</sup>.
- d. **Riverfront Development Committee** – Met for the second time and worked on scoping for a five-mile section. Meeting again on November 18<sup>th</sup>.
- e. **Small Communities Grant (Septic Systems)** – Two installed this year.
- f. **US Cellular Building Permit** –
- g. **Day Care Permit Pending State Licensure** – Held up by Covid.
- h. **Caribou Stream and River Side Trailer Parks Septic Issues** – Septic issues at these Trailer Parks and in Delwood Trailer Park as well. CEO Murchison is working with the Licensed Plumbing Inspector on this, it's a health and safety issue.
- i. **Use Permits** – Couple of possible use permits for the downtown area. Physical Therapy studio where Second Hand Rose was and Tae Quon Doe where Stitches used to be.

#### VI. **Chapter 13 –**

- a. **Land Use Table and General Zone Standards** – City Manager Dennis Marker presented some more proposed updates to the Zoning Code. Setback areas for landscaping development. Proposed reduction in required landscape buffer of twenty feet in the C-1 zone; smaller, narrower lots.

Consolidated setback requirements into one section and added footnotes. Added setbacks for porches and garage doors.

**VII. Comprehensive Plan Update –**

- a. Future Land Use (Information Only)** – CEO Murchison stated that an analysis is being done for the proposed Land Use section using the work that was done for the Blight Survey. Primary and secondary land use. Lot by lot and point by point analysis.

**VIII. Executive Session to discuss pending or reasonably eminent legal action under M.R.S.A. Title 1, §405.6.** – Dave Corriveau moved to go into Executive Session; seconded by Frank McElwain. Motion carried with all in favor.

The Board came out of Executive Session. Chairman White stated that a legal matter came before the Board with legal advice. No motion was made.

**IX. Adjournment** – Dave Corriveau moved to adjourn; seconded by Amanda Jandreau. Motion carried with all in favor.

Respectfully Submitted,

Christine Solman  
Planning Board Secretary

CS/dl

**CARIBOU ADMINISTRATION  
25 HIGH STREET  
CARIBOU, ME. 04736**



**MEMO**

**TO: Planning Board**  
**FROM: Code Enforcement Department**  
**RE: Code Amendment to Section 13-700 Subsection 27**  
**DATE: November 24, 2020**

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**Included in the Planning Board Agenda for the November 24, 2020**

**Exhibit A:** Request Mark Kelley of Country Farms Properties for rezoning at 31 Herschel Street and related area.

**Exhibit B:** Request from John Hamer Esq. from Rudman Winchell Counselors at Law on behalf of James Bacon to consider a requested amendment to Section 13-700 Subsection 27 of Caribou Code: Sewage Disposal allowing for temporary private systems.

See attached letter dated November 17, 2020 from Rudman Winchell to Robert White, Chair and Members of the Caribou Planning Board.

**Exhibit C:** The City Administration initiated request for an amendment to 13-700 Subsection 39 of Caribou Code; Addressing Medical Marijuana related facilities.

Due to timing issues with posted advertisements of Public Hearings related to Code amendments Public Hearings for each exhibit were opened at the Regular Caribou Planning Board meet November 12, 2020 and will be resumed at the Special Meeting of the Caribou Planning Board on November 24, 2020.

Planning Board may deliberate and offer a recommendation to Caribou City Council.



September 10, 2020

City of Caribou  
Attn: Caribou Planning Board  
Caribou, Maine

Dear Caribou Planning Board:

As a property management company operating in Aroostook County, I am seeking approval of a zoning change to R-2 for my property at 31 Hershel Street, Caribou. As you may be aware, this property has gone through many renovations over the years due to my pride in providing tenants and business owners with quality rentals. This building is currently being used and has been used as a multi-use commercial and residential property for many years.

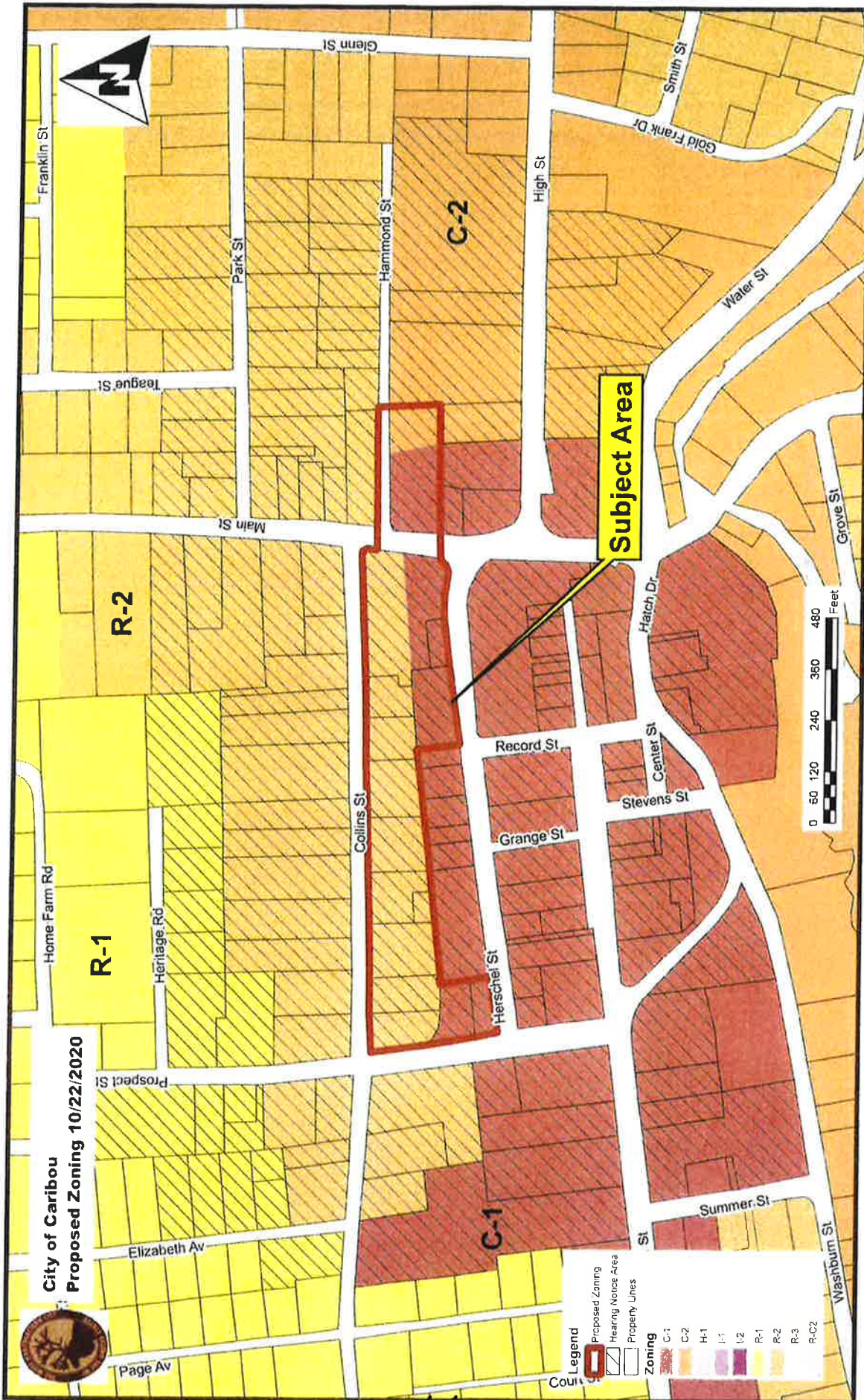
Due to the shortage of high-end rentals and by the request of my business relationship with Cary Medical Center & Pines Health Center, I am requesting that you approve the first story renovations which have been made to allow for two additional apartments to help accommodate Cary Medical Center's staff. These two apartments that I am seeking approval for are currently being utilized, as I previously called the City of Caribou due to the desperate need for traveling doctors and nurses. At this time, quality rentals are in high demand in Aroostook County and property management companies and the cities need to work together to provide options for housing. If this offer is declined, I will be forced to evict tenants who have done no wrong and will displace housing for the hospital staff, along with leaving a property unoccupied.

I hope you have recognized the positive improvements to 31 Hershel Street and many other properties since my ownership and believe that this is only a positive impact to the Caribou community and Aroostook County. We are doing these same changes in other communities and always follow the rules. Your careful and affirmative approval of my request is respectfully requested. I am available as always to answer any additional questions.

Sincerely,

Mark J Kelley  
Country Farms Properties  
207-227-1108  
countryfarmsmarket@gmail.com







**RUDMAN • WINCHELL**

John K. Hamer  
207.992.2598  
[jhamer@rudmanwinchell.com](mailto:jhamer@rudmanwinchell.com)

November 17, 2020

**VIA EMAIL ONLY**  
**[citymanager@cariboumaine.org](mailto:citymanager@cariboumaine.org)**

Robert White, Chair, and  
Members of the Caribou Planning Board  
25 High Street  
Caribou, ME 04736

**Re: Proposed Amendment to 13-700(27) to Allow for Temporary Sewage Disposal Systems**

Dear Mr. White and Members of the Caribou Planning Board:

Our office represents James Bacon, owner of a house located at 44 Washburn Street, Caribou. Over the summer, the house's connection to the public sewer failed. The connection is located approximately 16 feet below grade and there are other utilities in the vicinity of the line. Mr. Bacon asked for quotes to replace the line but few contractors were willing to give him one because of the depth of the line. He managed to obtain one quote for \$27,000 but was informed that the price was likely going to be higher given issues the contractor anticipated encountering once digging started.

Mr. Bacon attempted to obtain a variance from the CUD to install a subsurface wastewater system, but it was denied. Mr. Bacon lost his tenants. With no other avenues available, he proposed to amend the land use regulations to enable him, and others in his situation, to have a temporary sewage disposal system for up to a year to allow the line to be repaired. A large part of the reason for the proposed amendment is to enable Mr. Bacon to raise the money to pay for the repair. It is Mr. Bacon's hope that the City of Caribou will be willing to apply for and will be awarded a CDBG grant to address the condition of the lines along Washburn Street, but that will take time. We prepared a draft amendment and submitted it to the City. Since then, the draft has undergone further revisions, most of which are fine. However, two of the changes are problematic for Mr. Bacon.

First, the amendment to 27(B)(3)(i) as originally proposed would have allowed a property owner to use a temporary system if the cost of repair of the line exceeded \$10,000. The amendment was revised to state that the cost of repair must exceed \$20,000 and the property owner must submit three separate, independent bids. Increasing the minimum cost to \$20,000 seems unnecessarily high, but would not affect Mr. Bacon as his quote was for \$27,000 or more.

However, Mr. Bacon was only able to obtain one quote despite sending out requests for quotes to several companies. A property owner cannot compel a contractor to provide a quote, or in some cases, even respond in any manner at all. One quote should be acceptable provided the property owner has attempted to obtain several quotes.

Second, the amendment to 27(B)(3)(iv) as originally proposed was deleted and replaced with a requirement that the property owner must provide a performance guarantee to the City in an amount sufficient to cover the reconnection costs as demonstrated by bids<sup>1</sup> received for the work. While Mr. Bacon does not object to deleting the original (iv) proposal, the requirement that the property owner provide a performance guarantee defeats the whole purpose of the amendment.

Performance guarantees are used in the Subdivision Ordinance to ensure that developers building subdivisions construct all of the subdivision improvements correctly. That way, if a developer does a poor job at constructing the improvements and the City must complete or repair the work, it will not be using taxpayer money.

In contrast, a homeowner whose connection to the public sewer fails is not trying to develop anything, nor is it a voluntary situation. Without a way to dispose of sewage, a house is uninhabitable. Requiring that a homeowner put up a performance guarantee like a subdivision developer eliminates the relief that the amendment is designed to provide. If a homeowner had the funds to obtain a performance guarantee to cover the quote, the homeowner would have the resources to repair the line immediately and there would be no point to seeking a temporary system. The point to the amendment as proposed is to give the homeowner time to finance the repair without having to vacate the house. Mr. Bacon has already lost his tenants but the amendment would allow him to keep the house occupied while he finances the replacement line. Other houses on Washburn Street are believed to be in a similar situation of having connections of a similar age that are also quite deep, so this amendment could prevent other residents from being displaced as well. Requiring performance guarantees, which are not used outside of the Subdivision Ordinance, defeats the very purpose of the amendment that was proposed.

We therefore request that the Planning Board recommend approval of an amendment that actually helps homeowners, consistent with the amendment we originally proposed. Specifically, we request:

1. that 27(B)(3)(i) be changed to provide that the estimated cost to repair the connection to the public sewer must exceed \$15,000 and that the homeowner must attempt to obtain three independent quotes, but if the homeowner is not able to obtain three, one quote will suffice; and
2. that 27(B)(3)(iv) be deleted altogether.

We believe that this is a reasonable way to address the situation. It would allow Mr. Bacon's house to be occupied without harm to health or safety while Mr. Bacon pursues a way to fund

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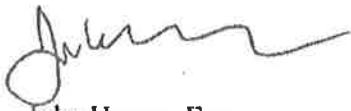
<sup>1</sup> Mr. Bacon did not issue a request for proposals, nor would any homeowners, so he only has a quote, not a bid.

Caribou Planning Board  
November 17, 2020  
Page 3

these repairs. It would provide the same opportunity for others in the same situation. However, the conditions to qualify for a temporary system are such that the amendment is unlikely to result in many applications so the City should not need to worry about being overwhelmed with applications.

It is to nobody's benefit to have a row of vacant or placarded buildings on Washburn Street where a solution is possible. The changes we request will help people facing difficult circumstances. Please help them. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John Hamer', with a stylized, flowing script.

John Hamer, Esq.

## **Amendment to Sec. 13-700(27) to Allow Temporary Sewage Disposal Systems in Certain Circumstances**

Sec. 13-700 General Requirements for Land Uses.

### **27. Sewage Disposal.**

#### **A. Public Sewage Disposal**

1. Any development within 1000 feet of a public sewage disposal system, at its nearest point, shall make provisions for connection to the public system, except for temporary systems as provided in (B)(3) below. When public sewage disposal service shall not be available at the time of construction, a "capped system" may be installed within the development, at the discretion of the Planning Board and after consultation with the Caribou Utilities District (CUD), to allow future connection when service becomes available without excavation within the right-of-way of any road within the development.
2. When a development is proposed to be served by the public sewage system, the complete collection system within the development, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The CUD shall certify that providing public sewage service to the proposed development is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the development.
4. The CUD shall review and approve the construction drawings for the public sewage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the District.
5. The public sewage disposal system(s) and related equipment for the development shall be designed by a Maine Registered Professional Engineer in full compliance with the requirements of the State of Maine, Subsurface Wastewater Disposal Rules and shall be approved by the CEO or Planning Board and the Health Office.

#### **B. Private Sewage Disposal.**

1. When a proposed development is not within 1000 feet of a public sewage disposal system, at its nearest point, connection to the public system shall not be permitted, except for temporary systems as provided in (3) below. Sewage disposal shall be by a private subsurface wastewater disposal system. The developer may install and connect to the public sewage disposal system totally at their own expense and in conformance with the standards and specifications of the CUD.



2. The applicant shall submit evidence of site suitability for subsurface wastewater disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine, Subsurface Wastewater Disposal Rules.
  - a. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the, Subsurface Wastewater Disposal Rules.
  - b. On lots in which the limiting factor has been identified as being within 12-15 inches of the surface, exclusive of shoreland areas, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the Plan and restricted so as not to be built upon.
  - c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.
3. In the event that an existing connection to a public sewage disposal system fails, a temporary system may be used to allow the continued occupancy of a building pending repairs:
  - a. In order to qualify for a temporary system:
    - i. the estimated cost to repair the connection to the public sewer must exceed \$10,000;
    - ii. the connection must be more than ten (10) feet below grade;
    - iii. the owner must have sought and been denied a variance from the CUD; and
    - iv. the property owner must continue to pay the base connection fee to the CUD;
  - b. The temporary system may be in the form of a subsurface wastewater system meeting the requirements of (2) above, or a holding tank.
  - c. A temporary system may be used for up to one (1) year, and the LPI may grant a six (6) month extension for cause shown.

Note: Additions are underlined; deletions are ~~crossed-out~~.

**Amendment to Sec. 13-700(27) to Allow Temporary Sewage Disposal Systems in Certain Circumstances**

Sec. 13-700 General Requirements for Land Uses.

27. Sewage Disposal.

A. Public Sewage Disposal

1. Any development within ~~1000~~ 300 feet of a public sewage disposal system, at its nearest point, shall make provisions for connection to the public system, except for temporary systems as provided in (B)(3) below. When ~~no~~ public sewage disposal service is within 300 feet ~~shall not be available~~ at the time of construction, a "capped system" with service laterals installed to each property may be installed within the development, at the discretion of the Planning Board and after consultation with the Caribou Utilities District (CUD), to allow future connection when service becomes available without needing future excavation ~~within the right-of-way~~ of any road improvements within the development.
2. When a development is proposed to be served by the public sewage system, the complete collection system within the development, including manholes and pump stations, shall be installed at the expense of the applicant unless otherwise provided by a credit enhancement agreement with the city.
3. ~~The CUD shall certify that providing public sewage service to the proposed development is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the development.~~
4. Any City approvals of a development that will connect to the public sewage system shall be contingent upon The written CUD shall review and approve approval of the public sewage system construction drawings for the public sewage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the District.
5. ~~The public sewage disposal system(s) and related equipment for the development shall be designed by a Maine Registered Professional Engineer in full compliance with the requirements of the State of Maine, Subsurface Wastewater Disposal Rules and shall be approved by the CEO or Planning Board and the Health Office.~~
6. Any property that is within 200 feet of the public system and having a private subsurface wastewater system, shall connect to the public system when their private system needs to be replaced.

B. Private Sewage Disposal.

1. When a proposed development is not within ~~1000~~ 300 feet of a public sewage disposal system, at its nearest point, connection to the public system ~~shall may~~ not be ~~permitted required, except for temporary systems as provided in (3) below.~~ Sewage disposal ~~shall may~~ be by a private individual or communal subsurface wastewater disposal system as may be permitted by DEP in consultation with CUD. The developer may install and connect to the public sewage disposal system totally at their own expense and in conformance with the standards and specifications of the CUD.
2. The applicant shall submit evidence of site suitability for subsurface wastewater disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine, Subsurface Wastewater Disposal Rules.
  - a. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the, Subsurface Wastewater Disposal Rules.
  - b. On lots in which the limiting factor has been identified as being within 12-15 inches of the surface, exclusive of shoreland areas, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the Plan and restricted so as not to be built upon.
  - c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.
3. In the event that an existing connection to a public sewage disposal system fails, a temporary system may be used to allow the continued occupancy of a building pending repairs:
  - a. In order to qualify for a temporary system:
    - i. the estimated cost to repair the connection to the public sewer must exceed \$~~1020~~0,000 as represented by three separate, independent bids;
    - ii. the connection to the public system must be more than ten (10) feet below grade;
    - iii. the owner must have sought and been denied a variance from the CUD; and
    - ~~iv. the property owner must continue to pay the base connection fee to the CUD;~~  
iv. the property owner provides to the city a performance guarantee, in accordance with section 13-750, which shall be sufficient to cover the reconnection costs as demonstrated by bids received for the work.

b. The temporary system may be in the form of a subsurface wastewater system meeting the requirements of (2) above, or a holding tank.

c. A temporary system may be used for up to one (1) year, and the LPI may grant a ~~one-time~~, six (6) month extension for cause shown.

Note: Additions are underlined; deletions are ~~crossed out~~.



**Section I. Title 13-204 Land Use Table Amendments**

The Land use table as found under Title 13-204 is amended to include the following land uses and zone designations.

Use	Zone								
	R-1	R-2	RC-2	R-3	C-1	C-2	I-1	I-2	H-1
<del>Medical</del> Marijuana Dispensaries	NO	NO	PB	NO	PB	PB	PB	PB	PB
Marijuana Caregiver Retail Store	<u>NO</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>PB</u>	<u>NO</u>	<u>PB</u>	<u>PB</u>	<u>NO</u>
Marijuana Cultivation Facility	<u>NO</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>NO</u>	<u>NO</u>
Marijuana Manufacturing Facility	<u>NO</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>NO</u>	<u>NO</u>
Marijuana Testing Facility	<u>NO</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>NO</u>	<u>NO</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>

**Section II. Title 13-700.39 Amendments**

Title 13-1700.39 Registered Nonprofit Dispensaries and Registered Cultivation Facilities for Medical Marijuana is amended as follows: (underlined text is added, stricken text is deleted)

**39. Regulation of Registered Nonprofit Dispensaries & Registered Cultivation Facilities for Medical Marijuana Related Facilities**

**A. Purpose and Authority**

The State Legislature, through the adoption of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', has determined that a municipality must specifically vote to allow certain activities and facilities associated with medical marijuana if the municipality wants to allow such activities to operate in the municipality. The City has determined that certain medical marijuana facilities, namely Caregiver Retail Stores, Dispensaries, Manufacturing facilities and Testing facilities, are appropriate activities in the City of Caribou, provided that the respective activity/use occurs in a zoning district in which the City has specifically identified the respective activity/use as a permitted use, and provided that the respective use/activity complies with the standards identified in this ordinance and all laws and rules adopted by the State of Maine regarding the same.~~To regulate the location of Registered Medical Marijuana Dispensaries within the City of Caribou:~~

~~Pursuant to Title 22 MRSA Chapter 558-C and §2428 (10), Maine law provides for the siting of Medical Marijuana Dispensaries as permitted by the Department of Health and Human Services.~~ The City of Caribou also reserves the right for additional siting and licensing requirements pursuant to municipal home rule authority, Title 30-A MRSA §3001.

Whereas marijuana has been determined to have both legitimate medical uses as well as a history of widespread illegal use, this Ordinance shall serve to govern the siting and licensing requirements specific to the City of Caribou for the operation of a Registered those Medical Marijuana ~~Dispensary~~ facilities listed above.

**CB. Regulations:**

1. The establishment of a Registered Nonprofit Dispensary or Registered Cultivation Facility shall require review by the Caribou Planning Board as per Section 13-300 "Site Design Review" of the Caribou Code ~~and be required to have a Section 13-302 (B) shall require a mandatory~~ public hearing as part of the Site Design Review. Siting requirements shall also apply to any and all ancillary structures, mobile units, or ~~any future~~ types of dispensary mechanisms ~~or related locations as yet contemplated within this ordinance~~ allowed within this ordinance.

2. No Certificate of Occupancy shall be granted for a ~~Registered Nonprofit Dispensary~~ medical marijuana related facility unless the ~~structure providing the service~~ use is located in ~~the H-1, C-1, C-2, I-1, I-2 or RC-2 Zone~~ a zone where such is permitted as shown in the Land Use Table of section 13-204.

3. No ~~medicinal marijuana related facility which dispenses harvested marijuana to a Qualifying Patient Registered Nonprofit Dispensary~~ shall be allowed in the R-1, R-2 or R-3 Residential Zones or within 300 feet of an existing residential dwelling or within 300 feet of the R-1, R-2 or R-3 Residential Zone Boundary Line. ~~Nothing in this provision shall prevent a Registered Medical Marijuana Caregiver from operating as may be permitted by State statute.~~

4. No Certificate of Occupancy shall be granted for a ~~medicinal marijuana related facility Registered Nonprofit Dispensary~~ if the premise concerned is located within ~~the a~~ Drug Free Safe Zone, or ~~within~~ 500 feet of a preexisting Private School, Day Care Facility, or ~~House of Public Worship Religious Center~~.

5. No Certificate of Occupancy shall be granted for a Registered Cultivation Facility unless the structure is located within a Registered Nonprofit Dispensary or is offsite from the Dispensary within the R-3 Zone and also meeting all setback requirements applicable to Registered Nonprofit Dispensaries.

6. No Certificate of Occupancy shall be granted for a Registered ~~Nonprofit~~ Dispensary unless the premise concerned is in complete compliance with all municipal, state and federal ~~site development~~ Codes and Regulations.

~~7.~~ Security requirements for ~~both the Registered Nonprofit Dispensary and associated Registered Cultivation Facilities~~ medical marijuana related facilities shall include as a minimum:

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

~~78.~~ A ~~medicinal marijuana related facility Registered Nonprofit Dispensary and Registered Cultivation Facility~~ may not continue to employ an employee who is convicted of any state or federal controlled substance law, or is under indictment or charged with any state or federal controlled substance law violation, while employed at the ~~medicinal marijuana related facility Registered Nonprofit Dispensary and or Registered Cultivation~~ Facility. If a principal officer or board member ~~of the facility~~ is convicted of



any state or federal controlled substance law while a principal officer or board member of ~~a Registered Nonprofit Dispensary or Registered Cultivation Facility~~ The facility, that medicinal marijuana related facility ~~Registered Nonprofit Dispensary or Registered Cultivation Facility~~ shall immediately be considered in violation of this Chapter.

89. Medical Marijuana Dispensing Facilities must provide an adequate interior waiting area to ensure no exterior waiting of clients.

910. Medical Marijuana Dispensing 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~~ All parking and access thereto shall comply with city site development standards.

1011. All signage shall meet the following requirements

- a. The requirements of Section 13-700, #29, A through H, and
- b. State requirements identified in Title 22, Chapter 558-C and under the Medical Use of Marijuana Program Rule 18-691 C.M.R. ch. 2, reference § 2429-B, Signs, advertising and marketing,
- c. Signage may not use any pictorial representations of any portion of a marijuana plant, products, by-products, or paraphernalia associated with the use or distribution of ~~legalized medical marijuana or illegal use of marijuana,~~
- d. The location, type and size of sign that a medical marijuana manufacturing facility or medical marijuana testing facility may display shall be the smaller of the size of signage permitted in the respective zoning district in which the facility is located or 24 square feet,
- e. signage shall not be internally lighted or a digital sign,
- f. A medical marijuana manufacturing facility or medical marijuana testing facility shall be permitted to display a maximum of two signs; a freestanding sign, such as one that is located adjacent to the road frontage of the property, and one that is located on the building in which the facility operates.

12. Registered Caregivers operating out of their residence shall apply for and obtain a permit for a home occupation in accordance with City of Caribou Land Use Ordinances Chapter 13-713 Home Occupations and shall comply with all standards set forth in that article. Registered Caregivers who cultivate medical marijuana only for themselves and/or members of their household are exempt from this requirement and are not required to obtain a permit or license. The cultivation, manufacturing, testing or sale of adult use/recreational marijuana from a residence is prohibited, unless it is for personal use in accordance with 28-A M.R.S. § 1502.

13. A request for a permit to establish a medical marijuana related facility shall be accompanied by evidence to the City that the applicant has obtained any and all required licenses, permits or similar approvals from the State of Maine, as such may be required by provisions of Title 22, Chapter 558-C and under the Medical Use of Marijuana Program Rule 18-691 C.M.R. ch. 2.

### **Section III. Definitions.**

The following term and definition changes are made in Title 13-900 Definitions. (Underlined text is added, stricken text is deleted).

House of Public Worship: "House of Public Worship" shall mean any building or place of assembly as so defined under Title 13-MRSDA Chapter 93.

Marijuana - Cardholder: "Cardholder" means a ~~A~~ qualifying patient, a primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary who has been issued and possesses a valid registry identification card.

Marijuana – Caregiver: A person registered and holding a current license or certificate from the appropriate State department as a Caregiver. This may include a Caregiver's assistant where permitted by State codes.

Marijuana - Caregiver Retail Store: A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Marijuana – Concentrate: The resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

Marijuana – Nonprofit Dispensary: "Nonprofit dispensary" means a ~~A~~ not-for-profit entity registered under Title 22 MRSA §2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to ~~cardholders~~ qualifying patients. All ancillary real property structures or mechanisms utilized as a mobile non-profit dispensary to include mobile units, vans, cars, trucks, trailers, motor homes, or other units not specifically set forth, must adhere to and shall be regulated by this ordinance. A nonprofit dispensary is a primary caregiver.

Marijuana – Extraction: The process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Marijuana – Edible Product: A marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana.

Marijuana - Enclosed, Locked Facility: "Enclosed, locked facility" means a ~~A~~ closet, room, greenhouse or other enclosed area equipped with locks and other security devices required by the State and this Ordinance that permits access only by a cardholder or qualified person employed by the related Registered Nonprofit Dispensary.

Marijuana – Harvested Marijuana: The plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

Marijuana – Manufacturing: For purposes of regulation of marijuana industries and processes, manufacturing shall include the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

Marijuana – Manufacturing Facility: A facility or a person authorized by the state to engage in marijuana extraction and manufacturing activities.

Marijuana - Medical use: "Medical use" means ~~the~~ The acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition as provided in state regulations.

Marijuana – Product: A product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.



Marijuana – Qualifying Patient: A person possessing a valid written certification regarding medical use of marijuana in accordance with State provisions.

Marijuana – Registration Certificate: A document issued by the appropriate State department that identifies an entity, person or facility as registered to conduct marijuana related business in accordance with State provisions.

Marijuana - Registered Cultivation Facility: “Registered Cultivation Facility” shall mean a~~Any~~ site used for the cultivation of Marijuana ~~whether at the location and a part of a Registered Nonprofit Dispensary or an associated offsite location meeting in accordance with all State operation and registration requirements pursuant to the licensing of the Dispensary.~~

Marijuana – Sample: A marijuana plant or harvested marijuana that is provided for testing or research purposes to a marijuana testing facility.

Marijuana – Testing Facility: A public or private laboratory that a) is authorized in accordance with State laws to analyze contaminants in and the potency and cannabinoid profile of samples; and b) is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the appropriate State agency.

Marijuana - Usable Marijuana: “Usable marijuana” means the~~The~~ dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but does not include the seeds, stalks and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.

Religious Center: A building or buildings owned or maintained by a religious organization(s) for social, civic or philanthropic purposes, and in which persons regularly assemble or frequent for worship or religious instruction with associated clergy. Uses also included are seminaries, monasteries and convents. This definition shall not include temporary tents or structures.

Registered Nonprofit Dispensary: “Registered Nonprofit Dispensary” means a nonprofit dispensary that is registered by the department pursuant to Title 22 MRSA §2428, subsection 2, paragraph A.





# Medical Marijuana Retail Store Eligible Sites



**Legend**

ResidentialZoneBuffer

SetBacks

Setback

Zoning

Zone

1000' Drug Free Safe Zone

300' Church Buffer

C-1

C-2

H-1

I-1

I-2

R-1

R-2

R-3

R-C2

**Note:**

No Registered Nonprofit Dispensary shall be allowed in the R-1, R-2 or R-3 Residential Zones or within 300 feet of an existing residential dwelling or within 300 feet of the R-1, R-2 or R-3 Residential Zone Boundary Line.

No Certificate of Occupancy shall be granted for a Registered Nonprofit Dispensary if the premise concerned is located within the Drug Free Safe Zone, or 500 feet of a preexisting Private School, Day Care Facility, or House of Public Worship.

**Sec. 8-105 Drug Free Safe Zones**  
All public athletic fields, parks, playgrounds and recreation facilities under the jurisdiction of the City of Caribou shall be designated as Drug Free Safe Zones in accordance with the State of Maine Title 17-A §1101(23). Any subject apprehended dealing drugs within 1,000 feet of any designated Drug Free Safe Zone shall be subject to enhanced penalties (17-A MRSA Chapter 45, Section E).

