



City of Caribou, Maine

*Municipal Building
25 High Street
Caribou, ME 04736
Telephone (207) 493-3324
Fax (207) 498-3954*

AGENDA Caribou Planning Board Regular Meeting

Thursday November 10, 2022, at 5:30 p.m.

The meeting will be broadcast on Cable Channel 1301 and the City's YouTube Channel. Public Comments submitted prior to the meeting no later than 4:00 pm on Thursday, November 10, 2022, will be read during the meeting. Send comments to CEO Ken Murchison at kmurchison@cariboumaine.org or call 493-5967.

- I. Call Meeting to Order, Determine Quorum
- II. Public Hearings
- III. Approval of minutes
 - a. Approval of Minutes of the October 13, 2022, Planning Board Meeting
- IV. Council Liaison Updates
- V. New Business
 - a. Comprehensive Plan 2024
 - i. Comprehensive Plan Forum September 27th, 2022, Recap
 - ii. Comprehensive Plan Momentum and next steps
 - iii. Next Comp Plan Work Session date (and concept)
 - b. Subdivision Ordinance Techniques (housing)
- VI. Old Business
 - a. Day Care Application for Sonya's Kids Daycare 16 Dahlgren Street, Tax Map 032 Lot 111 in the R-1 District Update
 - b. Land Use Table Workshop Next Work Session
 - c. Proposed "City of Caribou Cannabis Business Ordinance" Council Guidance and set Council/Planning Board workshop Dates and updates
- VII. Staff Report
 - a. Caribou Trailer Park Closure/West Gate Villa Clean Up
 - b. Riverfront Renaissance Meeting
 - c. Problem Properties
- VIII. Adjournment



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Caribou Planning Board Meeting Minutes Thursday, October 13, 2022 @ 5:30 pm City Council Chambers

Members Present: Christine Solman, Amanda Jandreau, Frank McElwain, Steve Wentworth, Eric Hitchcock

Members Absent: Dan Bagley, David Corriveau, Council Liaison John Morrill

Others in Attendance: Ken Murchison, Caleb Trombley, Karen Gorman

Acting Chairman Christine Solman called the meeting to order at 5:30 pm.

- I. **Call Meeting to Order, Determine Quorum** – Acting Chairman Christine Solman called the meeting to order at 5:30 pm. A quorum was present.

II. **Public Hearings**
None

III. **Approval of Minutes**
Approval of Minutes of the September 8, 2022, Planning Board meeting.

Frank McElwain moved to approve the minutes for September 8, 2022, Caribou Planning Board Meeting as presented.

Steve Wentworth Seconded the motion to approve.

Roll Call Vote:

Steve Wentworth – Yes; Frank McElwain – Yes; Amanda Jandreau – Abstained; Eric Hitchcock – Yes

Motion carried with 3 in favor, 1 abstention, no opposed.

IV. **Council Liaison Update**
None

V. **New Business**

- a. Caleb Trombley proposed “City of Caribou Cannabis Business Ordinance” and letter of Introduction

Mr. Trombley presented his sample ordinance to the Planning Board and described his business plan. Based loosely on the Town of Washburn ordinance, Mr. Trombley focused on a Medical Cannabis Retail Store only approach.

In this example the City of Caribou would opt into the Maine Cannabis Law for Medical Cannabis Retail stores only, would be able to limit the number of stores, designate the appropriate zoning and Land Use requirements, inspection schedules and annual permit fees.

Steve Wentworth Suggested that any a conversion of our existing Registered Non-Profit Dispensary ordinance to included Medical Cannabis Retail Stores should identify all appropriate uses including zoning and even hours of operation.

Eric Hitchcock suggested that all classifications be include in the definitions for instance Adult Use - personal and retail, Registered Nonprofit Dispensaries/Medical Cannabis Retail, caretaker, retail/personal use.

Various products should also be defined and quantified.

Acting Chair Christine Solman read the 10/09/2022 email from Planning Board Chair Dan Bagley into the record (see hard copy attached).

Action items, continue review of various Cannabis ordinances (Sanford, Washburn, Waterville), and Marijuana Education Toolkit for November Planning Board Meeting at which time we will set a workshop date.

b. Comprehensive Plan 2024

Christina Kane Gibson presented on behalf of Karen Gorman concepts for the October 27, 2022, Comprehensive Plan Forum. The Forum will be facilitator directed (Bethany Zell) with breakouts for each of the required Comp Plan sections.

Strong Planning Board attendance and participation was encouraged with our workgroup leaders ready to stimulate discussion for their Section, generate open ended questions to stimulate conversation and collect comments.

Section Leaders are:

Water Resources/Natural Resources/ Agricultural and Forest Resources

Eric Hitchcock and Staff Ken Murchison

Population and Demographics, (NMDC) Jay Kamm and Staff Ken Murchison

Economy, Christine Solman and Staff Karen Gorman

Housing, Steve Wentworth and Staff Ken Murchison

Recreation, Dan Bagley and Staff Karen Gorman and Gary Marquis

Transportation, (NMDC) Jay Kamm and Staff Ken Murchison

Public Facilities and Services Amanda Jandreau and Staff Karen Gorman

Fiscal Capacity and Capital Investment Plan, Dave Corriveau and Staff Ken Gorman

Existing Land Use, Planning Board Staff Ken Murchison

Future Land Use Plan, Planning Board Staff Ken Murchison

Education*, Frank McElwain Staff Karen Gorman

Riverfront Renaissance*, Riverfront Renaissance Committee Staff Ken Murchison

Historic and Archaeological Resources, Peter Baldwin Staff Karen Gorman

* Sections added to the State of Maine Required Sections

A quick conversation regarding Housing and Abandoned buildings was conducted with a quick history of elderly and subsidized housing in Caribou and the private nature of most of these efforts with he exception of Caribou Housing Authority and the Section 8 Housing Voucher System.

Perhaps it's time for a conversation regarding Municipal Housing Applications

The conversation turned to vacant and abandoned buildings and CEO Murchison briefed the Board on the progress of the State Land Bank Legislation and the opportunity to conduct these techniques locally, regional and at the State level and the application of the States Nuisance and Dangerous Property Statute.

VI. Old Business

- a. Day Care Application for Sonya's Kids Daycare 16 Dahlgren Street, Tax Map 032 Lot 111 in the R-1 District Update. To date the DHHS and Fire Marshall have not scheduled their inspections leaving our application incomplete.
- b. The next Land Use Table Workshop schedule. The Board opted to postpone the October Land Use Table Workshop due to other scheduled meetings and to reassess at the November Planning Board Meeting.

VII. Staff Report

- a. Dangerous Buildings/ Caribou Trailer Park, three remaining tenants, West Gate Villa outreach to new property landowners at a standstill. Steve Wentworth suggested sending the Notice via FedEx. Frost family properties clean up and demolition of collapsed barns is being addressed and progress of these projects will be followed closely (No change).
- b. The Otter Brook "Big Dig" is complete. DEP/DOT working together with Soderberg Construction removed the failed culverts and restored the natural flow of the brook. The Riverfront now has a destination overlook complete with parking area.
- c. Next Riverfront Renaissance Meeting scheduled for September 20th, we will be discussing the Mater Plan.

VIII. Other Business

Further discussion regarding the creation of a medical Cannabis Retail Store Ordinance resulted in the Planning Board by consensus requesting guidance from the Caribou City Council on the creation of the proposed ordinance. The Board questioned the efficiency of crafting the ordinance if there is no support for the passing of such. CEO Murchison will approach the City Council to gauge support and receive guidance.

IX. Next Meeting November 10, 2022

X. Adjournment

Motion by Amanda Jandreau to adjourn

Seconded by Frank McElwain

Roll Call Vote:

Steve Wentworth – Yes; Frank McElwain – Yes; Amanda Jandreau – Yes; Eric Hitchcock – Yes

Respectfully Submitted,

Amanda Jandreau
Planning Board Secretary

AJ/KM

Ken Murchison

From: Dan Bagley <dan.bagley@latticetech.net>
Sent: Sunday, October 9, 2022 10:46 AM
To: csolmanplanning@gmail.com
Cc: Ken Murchison; dbagleyplanning@gmail.com
Subject: Planning Board Meeting

Hi Christine – here's a follow-up from our telecon the other day. Since I won't be able to attend the meeting, I would like this email read at the meeting and included in the meeting minutes:

For Mr. Trombley's application, I think we should take plenty of time to review and discuss the proposal before scheduling a public hearing on this matter. It's important that we reach out and solicit input from other stakeholders before formulating any recommendations or taking it to public hearing. At the very least, we should get input from our City Attorney, City Manager, Code Enforcement Officer, Chief of Police, and CEO of Cary, plus whoever else the Planning Board feels should be consulted.

Also, we'll need help in identifying and gathering related case studies to help us understand the risks and rewards of implementing a retail marijuana ordinance in Caribou. The proposed ordinance, as written, will probably require significant refinement, and we'll need to look across the entirety of our land use ordinances to understand what other sections will be impacted. Also, we'll need to research actions necessary to opt in to the State's program. We won't have anything solid to bring to a public hearing until all this is worked out and inputs from other stakeholders are considered and incorporated.

At the end of the day, I don't envision that the Planning Board will be in a position to recommend directly either approval or disapproval of retail marijuana sales in Caribou – this is strictly City Council's domain; instead, I think the Planning Board's most useful role will be to say "If City Council chooses to proceed down this path, then here are the potential impacts and some important recommendations to consider on implementation." All of this will have to be discussed and deliberated at the Council level – we should try to give them all the information they need to make an informed decision on behalf of the voters.

Thanks,
Dan

[This email comes from outside of your organization. Please be cautious opening or clicking on any attachments or links.]

Hello All,

I would like to personally express appreciation for your dedication to the upcoming Comprehensive Planning effort shown through your attendance and participation at the visioning event last week. It was a great success, and we are currently compiling all the rich info received for a preliminary report at our next meeting. Around 50 were in attendance. Lots of great energy and feedback, see Facebook posts linked below!

A preview 🗳️: the "Caribou Cash" Investment activity on the way out resulted in these priorities:

Economic Development/new biz	\$365
Riverfront	\$355
Economic development/Tourism	\$255
Public Safety	\$250
Downtown Revitalization	\$145
Recreation	\$105

Here are links to two facebook posts about event:

<https://www.facebook.com/groups/1198380327217878/permalink/2006398896416013/>

<https://www.facebook.com/groups/1198380327217878/permalink/2010966342625935/>

Sincere thanks,
Karen

Karen C. Gorman
Special Projects Coordinator
City of Caribou, Maine

Ken Murchison

From: Penny Thompson
Sent: Thursday, November 3, 2022 2:48 PM
To: Karen Gorman; PlanningBoard2022
Cc: mark@aroostookwaste.com; Ken Murchison; Bethany Zell; John Morrill
Subject: RE: Appreciation and early results

Good afternoon –

Thank you to everyone who made this event such a successful one.

This is what I would like to see and I hope you can discuss at your next Planning Board meeting: **please keep this momentum going**. Let's work together to determine the best time for a monthly meeting on the 2024 Comprehensive Plan. It can be a short yet productive 60 minute meeting. Since some groups are Ken and some are Karen for staff, they could alternate so no one group is overburdened. I'm not saying it needs to be done exactly this way but here is just a real quick idea:

When: Third Thursday each month at the Wellness Center from 6-7 pm

November –	History / Culture / Archaeology
December –	Agriculture / Forest Resources / Water Resources / Natural Resources
January –	Housing
February –	Fiscal Capacity / Capital Investment
March –	Public Facilities and Services
April –	Recreation

And so on ... I may not even have the right lingo for the sections but I am just trying to get everyone thinking about a "plan for the plan".

I also want to have our facilitator working on more of the social media / engagement posts. I think those were very well received. If we have a set day / time / location for the comp plan work groups then we can get the word out with her colorful, engaging graphics. We will also add a tab to the home page once we have some of the data collected at the kick-off meeting compiled.

We have momentum. Let's keep it going. (I am probably dating myself but I am picturing Former President George H.W. Bush during the 1980 presidential primary season talking about the 'Big Mo' he was experiencing after the Iowa caucuses.)

Anyway. Thanks again.

Penny

From: Karen Gorman <kgorman@cariboumaine.org>
Sent: Thursday, November 3, 2022 8:31 AM
To: PlanningBoard2022 <PlanningBoard2022@cariboume.onmicrosoft.com>
Cc: mark@aroostookwaste.com; Ken Murchison <kmurchison@cariboumaine.org>; Penny Thompson <pthompson@cariboumaine.org>; Bethany Zell <zellcreative@gmail.com>
Subject: Appreciation and early results



Caribou Citizens Outreach

Public group · 2.5K members



Invite



Discussion

People

Media

Files



Troy Haney

October 28 at 9:28 AM · 🌐



Looking for ideas! Last night there was a meeting held to start gathering ideas for use in our new 10 year comprehensive plan that the planning board and others are working on to develop. I'd love to ask people on here to post ideas. Let's not turn this into a negative comment section, but let's get honest feedback and ideas to share with them. Please answer the following two questions:

1. What ideas or opportunities do you see in the next 10 years that Caribou could consider working on?
2. What is the biggest challenge you see Caribou dealing with the next 10 years?

Please keep the answers short and to the point and please no negativity. (No commenting against someone else's ideas) Let's provide a list of things we can work on as a community together. Thank you



You, Norma Blackstone Milton and 12 others

35 Comments 2 Shares

Like

Comment

Share

Top comments



Write an answer...



Troy Haney Author

Here are a couple to start:



Like Reply Share 5d



Franco Scalora

Troy Haney not being facetious here, but a genuine question. Isn't that what our recreation center is for? Most the of Caribou cares about kids event were held around it, as well as many other events. Is there a need for a second location to do events?

Like Reply Share 5d



3



Troy Haney Author

Franco Scalora looking more at a large building to host major shows and events. Aroostook County has a need for a new facility that is like the forum in Pl. The issue is in the winter when you need a building the forum is set up as an ice rink. Just an idea to build around.

Like Reply Share 5d



9



Franco Scalora

Troy Haney thanks for the clarification

Like Reply Share 5d



Christopher Lydon

An outdoor speaking / performing space like Houlton has in Monument Park. This would bring people to Caribou for events held there. Space for parking would be needed. Ideally it would be near downtown but there is not really the space there. Possib... [See more](#)

Like Reply Share 5d



3



Jim Gamage

Troy Haney maybe room enough to have an indoor soccer field.
<https://www.maineitch.com/>



MAINEPITCH.COM
Home | Pitch

Like Reply Share 4d



Write a public reply...



Keith Ouellette

My idea was the riverfront revitalization. I wanted to see tourist trains running. 2 dining cars running the river for lunch, dinners, foliage, etc. In the winter it converts to a polar express Santa ride along the river. Scary October rides. Train st... [See more](#)

Like Reply Share 5d Edited



11



Jessica Smith

Keith Ouellette I really like that idea for fall and winter.

Like Reply Share 5d



Carol Kamm

Keith Ouellette I have always said we have a beautiful resource that is not



Write a public reply...



Jonathan Elizabeth Holabird

Lack of response to healthy management of Substance use disorder!!

Like Reply Share 5d



Anne Clark

Jonathan Elizabeth Holabird I don't feel the city should be held responsible for that kind of thing. Substance abuse is an issue but the city cannot be held liable for that. If they do and something goes wrong they can be held liable and sued for such an issue.

Like Reply Share 5d



Jonathan Elizabeth Holabird

Anne Clark I'm not saying the city is responsible but I do believe with the city behind Recovery Aroostook our efforts would be way easier as well as more successful!! We need a plan

Like Reply Share 5d



Anne Clark

Jonathan Elizabeth Holabird thanks for clarifying because it sounded as though your thoughts were the city take charge. If that's the thought process we do not need another place to sell it within the city core.

Like Reply Share 5d



Write a public reply...



[View 13 more answers](#)





Caribou wants community to influence future growth and development

Melissa Lizotte • October 31, 2022

CARIBOU, Maine — For every benefit of living in Caribou, there are also many things keeping the city from fully serving residents, attracting new people and becoming a destination center for Aroostook and the state.

That's what residents hoped city leaders would take away during Caribou's first of many public gatherings focused on the city's goals for the next decade.

Like many Aroostook communities, Caribou has struggled to attract larger industries and businesses since Limestone's Loring Air Force Base closed nearly 30 years ago. In those decades, Caribou has become a major service center, with numerous repair shops, grocery stores, hardware and furniture stores, salons, spas, restaurants and medical services. The city has also **drawn in snowmobile enthusiasts** and attracted a **record number of new families** to the school district during the COVID-19 era.

But Caribou also has a **largely undeveloped riverfront**, no for-profit retail clothing stores, an affordable housing shortage, underutilized cultural centers and a growing drug problem. As the city looks toward the future, residents already agree that Caribou cannot grow without addressing those issues.



SPONSORED CONTENT

Storage Wars' Star Sells Unit With \$7.5 Million [↗](#)

By **Money Pop**

On Thursday, at least 50 residents attended the first public forum intended to launch Caribou's latest comprehensive planning. Every 10 years, city leaders state their goals for economic and business development, recreation, education and housing, among other categories, in a formal plan that makes the city more eligible for state and federal funds.

Business and economic growth became a major focus during the informal discussion.

For instance, while Caribou's existing businesses provide the most essential services, many residents still find themselves traveling 12 miles south to Presque Isle's Walmart or JCPenney, especially for clothing, technology and household items.

In many ways, noted moderator and Caribou marketing consultant Bethany Zell, the city has become a bedroom community for residents who work at larger businesses in Presque Isle.

"Are we okay with that?" Zell asked the crowd. "Maybe we don't need 15 department stores. Instead of thinking of Target, let's think of what we usually get at Target and how we can bring those things here."



SPONSORED CONTENT

Triplets Take the Same Picture for 36 Years. Don't Cry when You See the Last One [🔗](#)

By Taco Relish

While some debated whether Caribou could attract a big-box department store, most residents agreed that growing the city's downtown and riverfront areas for residents and visitors should be priorities.

Caribou's riverfront has been largely underutilized for business since the departure of agricultural factories and a long defunct steam and diesel plant. Though the area closest to the boat launch includes a vehicle repair shop, roofing company and new snowmobile storage units, many non-city-owned properties have **become blighted and in need of demolition or clean up**.

But all that unused property still contains potential, said Caribou native Melinda Barnard, who moved back to the city three years ago from Gardiner.

"Right now we don't have a real destination center that can attract different people," Barnard said.

Others agreed, and said that an indoor sports or outdoor concert venue could attract more regional competitions and events. Those who have been to downstate waterfronts highlighted ways that paved biking and walking trails, restaurants, boutique shops, hotels, campsites and civic centers attract visitors and encourage residents to remain in the area long term.

Louise Fode, a meteorologist at the National Weather Service, moved to Caribou in 2020 after working in Anchorage, Alaska. An outdoor recreation enthusiast, she agreed that more riverfront development could make Caribou a sought-after entertainment spot.

"I moved here in the middle of COVID when there wasn't much [for entertainment], so I would like to see more arts events and shows here," Fode said.

But to keep more residents in Caribou, many agreed that city officials **should address people's growing concerns** about substance use disorder.

Jonathan Holabird, chairperson of the nonprofit Recovery Aroostook, said that the lack of addiction recovery services should be an issue that leaders address in the next decade.

...by classes — one for men and another for women — and a resource center but, like other Aroostook towns, has no long-term recovery or detoxification facilities.

“Substance use is the biggest problem. We need to address it in small towns or else we’re not going to grow,” Holabird said. “Caribou has a chance to make recovery a lifestyle.”

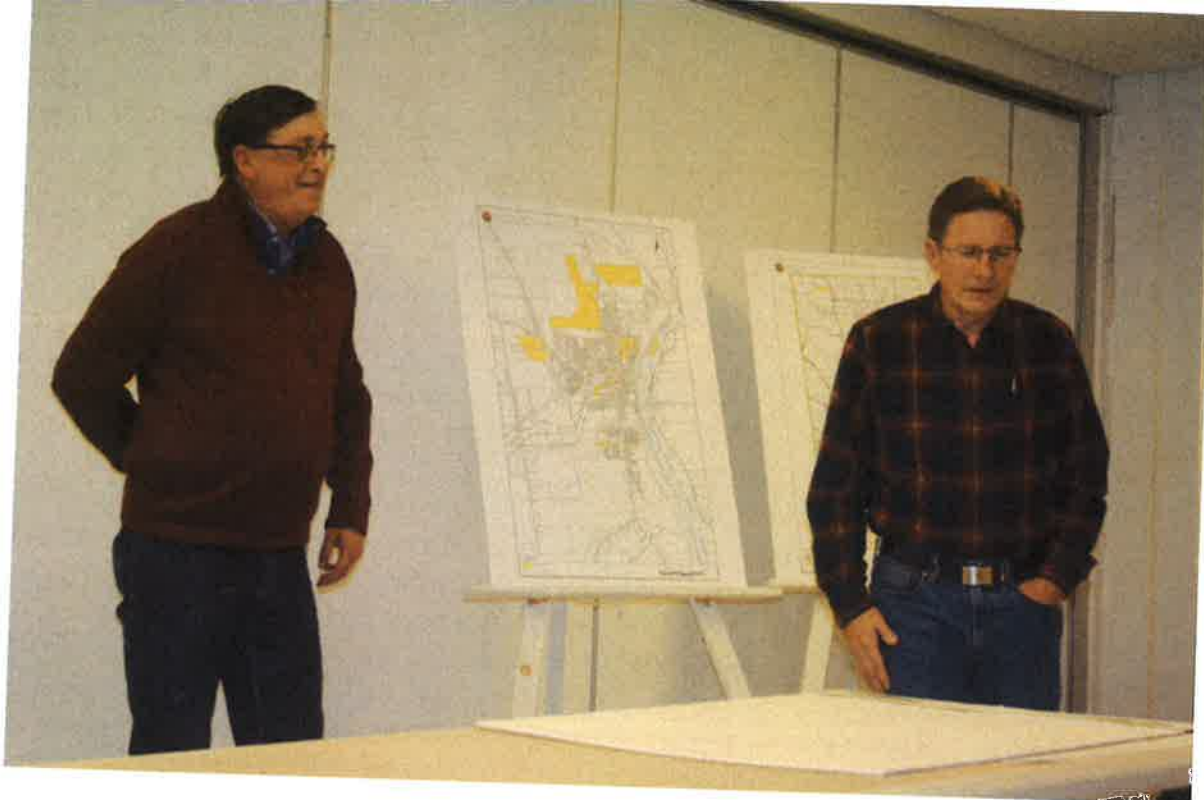
With Caribou’s latest comprehensive plan in the works until 2024, Planning Board Chairperson Dan Bagley encouraged people to attend future meetings that will focus more exclusively on the topics discussed.

He said that the turnout and community engagement far exceeded expectations.

“I remember a meeting years ago when we only had half of the people here tonight,” Bagley said, while addressing the audience. “We’re going to need your input. Just because we don’t have a particular thing now, doesn’t mean we can’t have it in the future.”



CARIBOU, Maine — October 27, 2022 — Jonathan Holabird (front row, left) speaks about substance use issues in Caribou during a community forum held Thursday. At least 50 residents attended the meeting, which aimed to get community input on the city's 10-year goals. (Melissa Lizotte | Aroostook Republican)



CARIBOU, Maine — October 27, 2022 — Caribou city councilor John Morrill (left) and Planning Board chair Dan Bagley kick off a community forum to discuss the city's next 10-year goals. (Melissa Lizotte | Aroostook Republican)



CARIBOU, Maine — October 27, 2022 — Marketing consultant Bethany Zell reads phrases placed on a "Caribou Love Tree" during a community forum Thursday. Community members discussed things they love about Caribou and what issues still need to be addressed in the next decade. (Melissa Lizotte | Aroostook Republican)



CARIBOU ADMINISTRATION
25 HIGH STREET
CARIBOU, ME. 04736



MEMO

TO: Caribou City Council Members
FROM: Kenneth Murchison, Zoning Administrator/CEO
RE: Medical Cannabis Retail Store Ordinance

DATE: October 21, 2022

The Caribou Planning Board has been approached by a local developer with a proposed Medical Cannabis Retail Store Ordinance that would support a potential business plan.

The evening of October 13th Mr. Trombley presented a concept ordinance featuring Medical Cannabis Retail Stores only. The concept was well presented and well received from the Planning Board. The proposal was taken under advisement. The Planning Board rightly realizes that action on this proposal would constitute an act of Ordinance requiring the Planning Board to research and compile an effective ordinance for the City and hold a Public Hearing before presenting the proposed ordinance to the Caribou City Council with the appropriate recommendations up or down regarding the ordinance for the City Council to deliberate and conduct their own Public Hearing.


The Planning Board is seeking guidance on this issue from the City Council. We certainly have the ability to see a project of this type to fruition however if there is no support for this initiative the Board hesitates to use this valuable time for no result.

At issue here is an act of ordinance, a perspective developer hoping to realize a plan for starting a business in our community and the potential to retain an existing business that would evolve from a Registered Non-Profit Dispensary to the Retail Medical Cannabis Store format.

The other option that came to light during a recent roundtable discussion sponsored by the State of Maine Office of Cannabis Policy would be the drafting of an ordinance that would allow Adult Use Cannabis Retail Stores using the rationale that this segment of the Maine Cannabis law is far more regulated than the Medical applications with the available products being tracked from seed to store and rigorously tested, far more than required by the Medical Cannabis sector.

Please advise.

Best regards,


Kenneth Murchison
City of Caribou CEO/Zoning Administrator



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On Monday, October 31, 2022 Fire Chief Scott Susi, Chief of Police Mike Gahagan and Code Enforcement Officer Ken Murchison conducted an inspection of the Safe Alternatives facility.

According to Chapter 7 Licenses and Permits, Article IX Registered Nonprofit Dispensaries and Registered Cultivation Facilities, sections 7 and 8:

7. Term of License: A permit shall be valid for only one (1) year from the date of first issuance and shall be subject to meeting all requirements as set forth in this Chapter for subsequent renewal.
8. Annually, within 30 days prior to the license renewal date; the dispensary shall be inspected by Code Enforcement, Fire Chief and Police Chief to ensure that the dispensary is in compliance for Zoning, Fire Safety and Security requirements.

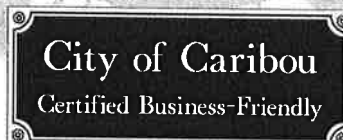
A dialogue was created with the facility manager and the general conditions of the facility were discussed followed by a tour of the building. The Registered Nonprofit Dispensary facility was found to be in excellent shape with no violations in Zoning, Fire Safety or Security.

Faithfully submitted:

Caribou Fire Chief Scott Susi

Caribou Chief of Police Michael Gahagan

Caribou Code Enforcement Officer Ken Murchison



CHAPTER 59 A

CITY OF PRESQUE ISLE

Adult Use and Medical Marijuana Businesses

Ordinance

REPEALS AND REPLACES CHAPTER 59



Approved by the City Council: January 23, 2020

Amended: October 7, 2020

Amended: June 1, 2022

True Copy Attest: _____

City Clerk

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Adult Use and Medical Marijuana Businesses

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A. Title:

This ordinance shall be known and cited as the “City of Presque Isle Adult Use and Medical Marijuana Businesses Ordinance” and will be referred to hereinafter as “this Ordinance”. This Ordinance limits all subject Adult Use and Medical Marijuana Businesses to the zoning districts specified in section J. E., prescribes definitions of Adult Use and Medical Marijuana Businesses, provides for permitting/licensing and regulation of Adult Use and Medical Marijuana Businesses, and provides performance standards for Adult Use and Medical Marijuana Businesses.

B. Authority and Applicability:

WHEREAS, implementing a system for the regulation of stores, dispensaries, cultivation, manufacturing, and testing for the production and sale of marijuana, is a complex function with significant administrative demands on the City of Presque Isle; and

WHEREAS, ensuring that possession and use of Adult Use and Medical Marijuana is limited to persons who are 21 years of age or older, except in the case of minors in possession of a medical marijuana patient card, is necessary to protect those who have not yet reached adulthood from the effects of irresponsible use of marijuana; and

WHEREAS, the City of Presque Isle believes that any production, processing, or selling of adult Use and Medical Marijuana should be conducted in a safe and fair manner for the health, safety, and welfare of the community, which includes complying with provisions of all applicable laws and ordinances relating to adult use and medical use of marijuana throughout the City of Presque Isle; and

NOW THEREFORE, this Ordinance is adopted pursuant to the Marijuana Legalization Act, 28-B M.R.S. §101 et seq.; the Maine Medical Use of Marijuana Act, 22 M.R.S. §2421 et seq.; and the City’s home rule authority under Article VIII, Part 2, Section 1 of the Maine Constitution 30-A M.R.S. §3001 et seq., and 30-A M.R.S. §4301 et seq.

C. Purpose:

It is the purpose of this Ordinance to regulate Adult Use and Medical Marijuana Businesses in order to promote the health, safety, and general welfare of the citizens of Presque Isle, and to establish reasonable and uniform regulations for the appropriate location of Adult Use and Medical Marijuana Businesses in Presque Isle. Persons or entities wishing to establish an Adult Use or a Medical Marijuana Business within the City of Presque Isle shall first obtain a license from the Presque Isle City Council (hereinafter “the City Council”) and shall be subject to the provisions of this Ordinance. This Ordinance may 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.

D. Conflict with Other Ordinances; State Law:

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply. Nothing herein is intended to conflict with State law; whenever a provision of this Ordinance conflicts with State law the more restrictive provision shall apply. All applicants and licensees shall comply with all applicable State laws.

E. Effective Date:

The effective date of this Ordinance, and the business licensing thereunder, shall be the date of adoption by the City Council.

F. Validity and Severability:

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

G. Definitions:

Adult Use Cultivation facility: a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to Adult Use Products Manufacturing Facilities, to Adult Use Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Adult Use Marijuana Stores.

Adult Use Marijuana Nursery Cultivation Facility: a facility licensed under this ordinance to cultivate not more than 1,000 SF of plant canopy pursuant to 28-B M.R.S. §501.

Adult Use Marijuana Store: a facility licensed under this ordinance to purchase adult use marijuana, immature marijuana plants and seedlings from an Adult Use Cultivation Facility, to purchase adult use marijuana and adult use marijuana products from an Adult Use Products Manufacturing Facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult Use Marijuana Testing Facility: a facility licensed under this ordinance to develop, research and test adult use marijuana, adult use marijuana products and other substances.

Adult Use Products Manufacturing Facility: a facility licensed under this ordinance to purchase adult use marijuana from a cultivation facility or another product manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Code Enforcement Officer (CEO): a person, appointed by the City Council, to administer and enforce Land Use Ordinances, Zoning Ordinances, Building Codes, and certain State Laws.

Cultivation or Cultivate: the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

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.

Immature marijuana plant: a marijuana plant that is not a mature marijuana plant or a seedling.

Law Enforcement Officer (LEO): means any officer, agent, or employee of a State, unit of local government, or Sheriff Deputy authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law. This includes full and part-time personnel.

Manufacture or Manufacturing: 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 means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana Business: Medical Marijuana Cultivation Facility, Medical Marijuana Manufacturing Facility, Medical Marijuana Testing Facility, Registered Dispensary, Registered Caregiver Retail Store, Adult Use Marijuana Cultivation Facility, Adult Use Marijuana Products Manufacturing Facility, Adult Use Testing Facility, or Adult Use Marijuana Store licensed under this Ordinance.

Medical Marijuana Cultivation Facility: a facility licensed under this ordinance to cultivate, prepare and package medical marijuana at a location that is not the residence of the Registered Caregiver or Qualifying Patient.

Medical Marijuana Manufacturing Facility: a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F.

Medical Marijuana Testing Facility: a public or private laboratory that:

- A. Is authorized in accordance with 22 M.R.S. §2423-A, subsection 10 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 State of Maine.

Medical Use: 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 qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.

Plant Canopy: the total surface area within the licensed premises of an Adult Use Marijuana Cultivation Facility that is authorized for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of non-contiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

Pre-School: A public or private institution that provides instruction to children who are 3 to 5 years of age

Qualifying patient: a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.

Registered caregiver: a person or an assistant of that person that provides care for a qualifying patient and who is registered by the State of Maine pursuant to 22 M.R.S. §2425-A.

Registered Caregiver Retail Store: a facility licensed to sell harvested marijuana to qualifying patients for the patients' medical use.

Registered Dispensary: an entity registered under 22 M.R.S. § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Testing or test: the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

H. License Required:

No person may establish, operate or maintain a Marijuana Business without first obtaining a Certificate of Occupancy from the CEO and a license from the City Council.

It is a violation of this Ordinance for any person to operate a Marijuana Business without a valid Marijuana Business license issued by the City pursuant to this Ordinance.

Pursuant to 28-B M.R.S. § 402, an applicant seeking to operate an Adult Use Marijuana Business may not submit an application for a license unless the applicant has been issued a conditional license by the State of Maine to operate the Adult Use Marijuana Business.

Marijuana Business Licenses shall be administered on a first come, first served basis based upon the date the application is deemed complete.

The cultivation, manufacturing, testing or sale of adult use marijuana from a residence is prohibited, unless it is for personal use in accordance with 28-A M.R.S. § 1502. Home cultivation of adult use marijuana for personal use is exempt from the licensing requirements of this Ordinance. Provided, however, that outdoor cultivation of adult use marijuana for personal use is prohibited, unless the residence is located in an agricultural zoning district.

I. Application Procedure:

A. An application for a license must be made on a form provided by the City.

B. All applicants must be qualified according to the provisions of this Ordinance.

Applicants shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this Ordinance.

C. Application to establish a Marijuana Business

1. If the applicant who wishes to operate a Marijuana Business is a single individual, this person must sign the application for a license. If the applicant who wishes to operate a Marijuana Business is more than one individual, each person who has an interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

2. The completed application for a Marijuana Business license shall contain the following information and shall be accompanied by the following documents:

- a. If the applicant is an individual: The individual shall state their legal name and any aliases, and submit proof that they are at least twenty-one (21) years of age.
- b. If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.
- c. If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.
- d. If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.

- e. If the applicant intends to operate the Marijuana Business under a name other than that of the applicant, they must state the Marijuana Business' name and submit the required registration documents.
 - f. If the applicant, an officer, member or employee has been convicted of criminal activity under State and/or federal law, they must list the specified criminal activity involved, and the date, place, and jurisdiction of each conviction.
 - g. If the applicant has had a previous license under this Ordinance or other similar Marijuana Business license applications in another town, city or state denied, suspended or revoked, they must list the name and location of the Marijuana Business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose license has previously been denied, suspended or revoked, listing the name and location of the Marijuana Business for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.
 - h. If the applicant holds any other permits/licenses under this Ordinance or other similar Marijuana Business license from another town, city, or state the applicant shall provide the names and locations of such other permitted/licensed businesses.
 - i. The type of Marijuana Business for which the applicant is seeking a license.
 - j. The location of the proposed Marijuana Business, including a legal description of the property, street address, and telephone number.
 - k. Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.
 - l. The applicant's mailing address and residential address.
 - m. Recent passport-style photograph(s) of the applicant(s).
 - n. The applicant's driver's license.
 - o. A sketch showing the configuration of the subject premises, including building footprint, interior layout with floorspace to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.
 - p. A copy of a City Tax Map depicting: the subject property lines and the property lines of other properties within one thousand (1,000) feet of the subject property; measured in accordance with Section J.A.3.
3. All applications for a Marijuana Business license shall be kept confidential by the City.

4. All applicants, including all individuals, officers, directors, managers, members, and partners, for any Adult Use Marijuana Business license, excepting Adult Use Marijuana Testing Facilities, must be residents of the State, as defined in 28-B M.R.S.A. §102, and a majority of shares, partnership interests, and membership interests, or other equity interests in corporate applicants must be held or owned by persons who are residents.

All applicants, including all individuals, officers, directors, managers, members, and defined partners, for any Medical Marijuana Business license must be residents of the State, as in 22 M.R.S. § 2422.

5. If an applicant is a person, the person must be a resident as that term is defined in the application. If the applicant is a corporation, partnership, or limited liability company, every officer, and managing partner must be a person who is a resident, and a majority of shares, partnership interests, or other equity interests must be held or owned by persons who are residents. The residency requirement does not apply to applicants for testing licenses.
6. The Presque Isle Marijuana Application Review Board (consisting of Police Chief, Fire Chief, Code Enforcement Officer, Economic Development Director, City Assessor, and City Engineer) shall review all applications for completeness and ensure all plans will allow a Marijuana Business to follow this Ordinance. Unanimous approval by all members of the Review Board is required before sending a license application to the City Council for final approval. The Review Board may deny an application for failure to meet the requirements of this Ordinance. Action for denial does not preclude an applicant to reapply with a new application and corresponding application fee.

D. Application and License Fees All applications must be submitted with a *(SEE SCHEDULE A)* fee. If an application is approved, the following license fees must be paid before the City will issue a license:

Marijuana Store: Annual Operation License Fee: *(SEE SCHEDULE A)*

Marijuana Manufacturing Facility: Annual Operation License Fee: *(SEE SCHEDULE A)*

Marijuana Testing Facility: Annual Operation License Fee: *(SEE SCHEDULE A)*

Adult Use Marijuana Cultivation:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: *(SEE SCHEDULE A)*

Tier 2: 501-2,000 SF of mature plant canopy: Annual License Fee: *(SEE SCHEDULE A)*

Tier 3: 2,001-7,000 SF of mature plant canopy: Annual License Fee: *(SEE SCHEDULE A)*

Tier 4: > than 7,000SF of mature plant canopy: Annual License Fee *(SEE SCHEDULE*

A)

Medical Marijuana Cultivation: Annual Operation License Fee: *(SEE SCHEDULE A)*

Adult Use Marijuana Nursery Cultivation: Annual License Fee: *(SEE SCHEDULE A)* (Plant canopies of individual Nursery Cultivations are permanently capped at 1,000 SF.)

Renewal applicants for Adult Use Marijuana Cultivation licenses may seek an increase to a higher tier if they comply with the requirements in this section. Applicants for Adult Use Marijuana Cultivation licenses may not hold more than three (3) such licenses or a total

combined plant canopy in excess of 30,000 SF.

J. Standards for Permit:

A. General

1. All Marijuana Businesses shall comply with applicable state and local laws and regulations.
2. Marijuana Businesses shall only be located within the zoning districts permitted in section E. below.
3. Marijuana Businesses may not be located on property within one thousand (1,000) feet of the property line of a preexisting public or private school (K-12). For the purposes of this Ordinance, "school" includes a public school, private school as defined in 20-A M.R.S.A. §1:
Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the Marijuana Business is located. If the Marijuana Business is located within a commercial subdivision, the required setback shall be measured from the front door of the Marijuana Business to the property line of the school. Presence of a town, city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
4. Marijuana Businesses may not be located on property within one hundred fifty (150) feet of the property line of a parcel containing one or more other Marijuana Businesses, a Church, Pre-School, Day Care, or Community Center. Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the front doors of existing primary structures of the parcels of land on which the Marijuana Businesses are located. If the Marijuana Business is located within a commercial subdivision, the required setback shall be measured from the front door of each of the Marijuana Businesses. Presence of a town, city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

Adult Use and Medical Marijuana Cultivation Facilities and Adult Use and Medical Marijuana Manufacturing Facilities operating within the industrial zoning district are exempt from this setback requirement.
5. No outside cultivation or storage of marijuana, marijuana products, or related supplies is permitted, except that outdoor cultivation of marijuana in the Agricultural Farming / Forestry District is permitted.
6. Pursuant to 22 M.R.S. §2429-D(3), Registered Caregiver Retail Stores, Registered Dispensaries, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facilities, as well as Medical Marijuana Cultivation Facilities, that were operating with City approval prior to December 13, 2018, are grandfathered in their current location and current use and shall be treated as legally non-conforming uses in accordance with Article III of the Presque Isle Zoning Ordinance if their location or use is not in conformance with this ordinance or applicable zoning ordinances, provided, however, that said Marijuana Businesses shall apply for and obtain a license.

The holder of a license for a Medical Marijuana Cultivation Facility or a Medical Marijuana Manufacturing Facility that complies with all applicable provisions of this Ordinance and the Presque Isle Zoning Ordinance, may exchange their license for an Adult Use Cultivation Facility or Adult Use Manufacturing Facility license in the same location, provided they meet all requirements and standards to operate an Adult Use Cultivation Facility or Adult Use Manufacturing Facility, with the exception of the required setbacks between facilities and schools. Said holder must file an application and pay a (SEE SCHEDULE A) fee.

The holder of a license for a Registered Caregiver Retail Store that complies with all applicable provisions of this Ordinance and the Presque Isle Zoning Ordinance may exchange their license for an Adult Use Marijuana Store license in the same location, provided they meet all requirements and standards to operate an Adult Use Marijuana Store. Said holder must file an application and pay a (SEE SCHEDULE A) fee.

All Adult Use Marijuana Stores and Registered Caregiver Retail Stores must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer pays for and picks up such orders in the store on the day the order is made, an exception is made for Registered Caregiver Retail Stores whereas it may be a necessity for the business to deliver medical marijuana to a patient. These deliveries will be made by the business and no contracted/paid delivery service will be authorized. Delivery must be made directly to the Qualified Patient and proper identification is verified.

7. Adult Use Marijuana Stores and Registered Caregiver Retail Stores may not use vending machines for sales, may not have "drive-through" or "drive-up" window serviced sales, and may not have internet-based sales with credit/debit card payment and delivery by USPS, UPS, FedEx, DHL, or any other global or local delivery service or courier.
8. Security measures at all Marijuana Business premises shall include, at a minimum, the following:
 - a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and
 - b. Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and
 - c. A locking safe permanently affixed to the premises that is suitable for storage of all marijuana, marijuana products, and cash stored overnight on the licensed premises; and
 - d. Exterior lighting that illuminates the exterior walls of the licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable light pollution standards established in the Technical Assistance Bulletin (Lighting Manual) produced by the State Planning Office; and
 - e. Deadbolt locks on all exterior doors and any other exterior access points, excepting window which shall have locks; and
 - f. Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

9. Ventilation

All Marijuana Businesses are required to be in compliance with Odor Control and Abatement Performance Standards, and all Marijuana Cultivation facilities shall submit an odor mitigation plan sufficient to mitigate potential nuisance conditions at property lines.

10. Operating Plan

Marijuana Businesses which cultivate, test, and/or manufacture are required to submit an operation plan that at a minimum addresses the following:

- a. wastewater; and
- b. disposal of waste.

11. Required Notices

There shall be posted in a conspicuous location inside each Marijuana Store, at least one legible sign containing the following information: On-site consumption of marijuana is illegal; Open and public consumption of marijuana in the State of Maine is illegal; The use of marijuana or marijuana products may impair a person's ability to drive a car or operate machinery; No one under the age of twenty-one (21) may purchase marijuana or marijuana products, except a minor with medical marijuana card; Loitering prohibited; Marijuana use during pregnancy can be harmful to your baby's health.

12. Signs

All signs used by and all marketing and advertising conducted by or on behalf of the marijuana business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age. The signs, marketing, or advertising is prohibited from making any health or physical benefit claims. All signage shall meet the City's Land Use Sign standards and may use an image or images of the marijuana plant or plants, or parts thereof, as long as they do not exceed 20% of the sign face, but there shall be no pictorial representations of other marijuana products, by-products, or paraphernalia associated with the use or distribution of retail marijuana.

The exterior of all Marijuana Stores shall display a 1' x 1' image of any universal symbol for Medical or adopted by the State's Department of Administration and Financial Services.

- B. Right of Access/Background Check/Inspection Every Marijuana Business shall allow law enforcement officers and the Presque Isle Code Enforcement Officer ("CEO") to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance. All premises managers for Marijuana Businesses shall submit emergency contact information to the Presque Isle 911 Communication Center. All business assets shall be reported to the City Assessor annually. Due to fire, explosion, and other hazards inherent in Marijuana Cultivation, Testing, and Manufacturing facilities, including, but not limited to, heavy electrical loads, hot lighting fixtures, CO2 enrichment, extraction solvents (acetone, butane, propane, ethanol, heptane, isopropanol, CO2, etc.), high-pressure extraction methods (CO2, etc.), and flammable contents, the owners of all such facilities shall agree to be inspected annually by the Presque Isle Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access. Knox Boxes shall be obtained and installed in coordination with the Presque Isle Fire Department.
- C. Indemnification By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the City, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Marijuana Business owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations.

By accepting a license issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the City, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or

damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a permitted/licensed Marijuana Business.

D. State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, cultivation, manufacture, distribution, or testing of Marijuana or Marijuana products, the additional or stricter regulation shall control the establishment or operation of any Marijuana Business in Presque Isle.

Compliance with all applicable State laws and regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with State laws or regulations shall be grounds for revocation or suspension of any license issued hereunder.

E. Zoning

All applications for business subject to review by this ordinance shall be submitted to the CEO for initial review for conformance with the standards of this ordinance. Within 10 business days of receipt of an application the CEO shall inform the applicant in writing in the event that the application is found to be incomplete.

- F.** A Certificate of Occupancy shall be issued by the Code Officer upon inspection of the premises and finding that the building or buildings are in compliance with applicable Building, Electrical, and Plumbing Codes adopted by the City of Presque Isle.

LAND USE CHART			
CLASSIFICATION	ALLOWABLE ZONES	PERMITTING AUTHORITY	MINIMUM LOT SIZE (In Acres)
Marijuana Store	B, RB, DRB, SC, GD	CEO	None
Marijuana Manufacturing Facility	B, I, AFF	CEO	5
Marijuana Testing Facility	B, I, RO	CEO	None
Marijuana Cultivation Facility			
<i>Tier 1 0 to 500 SF mature canopy</i>	B, I, AFF, AHZ	CEO	.25
<i>Tier 2 501 to 2,000 SF mature canopy</i>	B, I, AFF, AHZ	CEO	.5
<i>Tier 3 2,000 to 7,000 SF mature canopy</i>	B, I, AFF, AHZ	CEO	.5
<i>Tier 4 > 7,000 SF mature canopy</i>	B, I, AFF, AHZ	CEO	1
Nursery - Marijuana Cultivation	B, I, AFF, AHZ	CEO	1

K. Enforcement

A. Violations

1. Any violation of this Ordinance, including failure to comply with any condition, may be enforced in accordance with 30-A M.R.S. §4452. Every day a violation exists constitutes a separate violation.
2. Commencement of any Marijuana Business without a City license for same shall be a violation of this Ordinance. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the Code Enforcement Officer (CEO). Upon such CEO notification, the City can pursue fines and/or penalties under 30-A M.R.S. §4452.

B. Law Enforcement Officer ("LEO") and Code Enforcement

Law enforcement officers and the CEO may at any reasonable time conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to license approvals and shall investigate all complaints of alleged violations of the Ordinance.

1. If the LEO or CEO finds that any provision of this Ordinance is being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including but not limited to, discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the City Council and be maintained as a permanent record.
2. The LEO or CEO shall keep a complete record of all essential transactions of the LEO or CEO, including Marijuana license applications submitted, permits/licenses granted or denied, training certifications, revocation actions, revocation of permits/licenses, appeals, court actions, violations investigated, violations found, and fees collected.

C. Legal Actions

When the above notification and/or inspection actions do not result in the voluntary correction or abatement of the violation by the subject Marijuana Business, the City Council, upon receiving written notification from the LEO or CEO, may institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance.

The City Council, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.

D. Penalties/Fines

Any person, including but not limited to, a Marijuana Business owner, a property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this Ordinance, or fails to comply with any of its requirements, shall be penalized in accordance with 30-A M.R.S. §4452. Fines of \$100.00 to \$5,000.00 per day, as levied by the City Council may result. All fines will be paid to the City of Presque Isle.

L. Training:

A. Individuals who sell marijuana and marijuana products, pursuant to a Marijuana Store business license, must complete responsible marijuana vendor sales practices training as approved by the CEO or State. This training may be completed online and an employee must be certified within 60 calendar days of employment.

B. Recordkeeping

Marijuana Store licensees shall maintain on the licensed premises, written records of the vendor training programs completed by individuals who sell marijuana and marijuana products and shall produce those records upon request by the CEO or LEO with the Presque Isle Police Department.

C. Failure to comply with the training requirements

Failure to meet the training requirement imposed by the CEO, may result in the denial/revocation of a Marijuana Business license during renewal.

M. Appeals:

If the City of Presque Isle denies an application or fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality within 90 days after the date the person submitted the request to the City, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with rule 80B of the Maine Rules of Civil Procedure, except that, if the City notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the City fails to act on the request within 180 days after the date the person submitted the request to the City.

N. Fees & Application:

The fee schedule of this Adult Use and Medical Marijuana Businesses Ordinance shall be reviewed and set annually each December by the Presque Isle City Council.

City staff shall design an application form that is compliant with this ordinance to be used for all Marijuana Business applications. Changes to this form will be reported to the City Council at the next available Council Meeting.

O. Sunset Provision:

This Ordinance shall be in force for the term of four (4) years from its effective date noted. This Ordinance shall become null and void upon the expiration of four (4) years from said effective date: unless recommended and required by the City Council to remain effective prior to such expiration date.

Chapter 161

MARIJUANA

[HISTORY: Adopted by the City Council of the City of Sanford 3-5-2019, confirmed 7-9-2019 by Order No. 18-553-01.¹ Amendments noted where applicable.]

1. Editor's Note: This order also superseded former Ch. 161, Marijuana, Art. I, Retail Establishment, adopted 8-1-2017 by Order No. 17-105.16, and Article II, Cultivation, adopted 12-19-2017 by Order No. 17-160-01.

ARTICLE I
General Provisions

§ 161-1.1. Purpose and findings. [Amended 5-5-2020 by Order No. 19-874-01]

- A. The City Council finds the importance of appropriately siting marijuana properties and marijuana operations in order to protect the public health, safety, and welfare, including, but not limited to, security and preventing the impacts of marijuana operations from extending beyond the premises in which the operations are taking place and is addressed in both Chapter 280, Zoning, and Chapter 149, Licensing. **[Amended 4-19-2022 by Order No. 22-151-01]**
- B. The City Council finds that with the reasonable and necessary restrictions on locations and establishment of regulations in this chapter and Chapter 280, Zoning, there is sufficient suitable area within the City to site marijuana operations. **[Amended 4-19-2022 by Order No. 22-151-01]**
- C. The City Council finds that licensing marijuana properties and marijuana operations on those properties shall provide for periodic review and reasonable control of their practices to ensure that public health, safety, and welfare concerns are protected.
- D. The City Council finds that it is reasonable to limit the number and location of marijuana properties and marijuana operations where they are allowed and that in doing so, there is sufficient area within the City dedicated to marijuana operations.
- E. The regulation and licensing of marijuana properties and marijuana operations is not intended to conflict with Title 22 M.R.S. Chapter 558-C, Maine Medical Use of Marijuana Act, or 28-B M.R.S. Chapter 28-B, Adult Use Marijuana, or state administrative rules, as appropriate, but provides separate and additional requirements as authorized pursuant to 22 M.R.S. § 2429 as necessitated by these findings for the purpose of protecting the public health, safety and welfare of persons in the City. **[Amended 4-19-2022 by Order No. 22-151-01]**

§ 161-1.2. Definitions.

For purposes of this chapter, the following terms, which are defined in this chapter or in Chapter 280, Zoning, shall apply unless otherwise indicated:

CULTIVATION — See Chapter 280, Zoning, Article II, Definitions.

EXTRACTION — See Chapter 280, Zoning, Article II, Definitions.

HEMP — See Chapter 280, Zoning, Article II, Definitions.

MANUFACTURING — See Chapter 280, Zoning, Article II, Definitions, "light manufacturing" and "medical marijuana manufacturing facility." Manufacturing does not include cultivation or testing.

MARIJUANA — See Chapter 280, Zoning, Article II, Definitions.

MARIJUANA GROWER — A licensee that cultivates marijuana and may package it at a licensed marijuana production facility. **[Amended 5-5-2020 by Order No. 19-874-01]**

MARIJUANA MANUFACTURER — A licensee that obtains or receives cultivated marijuana and manufactures or prepares marijuana products at a licensed marijuana

production facility.[Amended 5-5-2020 by Order No. 19-874-01]

MARIJUANA MANUFACTURING FACILITY — See Chapter 280, Zoning, Article II, Definitions.[Amended 5-5-2020 by Order No. 19-874-01]

MARIJUANA OPERATION — A marijuana property, or hemp grower or cultivator, marijuana manufacturer, or marijuana production facility.[Amended 5-5-2020 by Order No. 19-874-01; 4-19-2022 by Order No. 22-151-01]

MARIJUANA PRODUCTION FACILITY — See Chapter 280, Zoning, Article II, Definitions.[Amended 5-5-2020 by Order No. 19-874-01]

MARIJUANA PROPERTY — See Chapter 280, Zoning, Article II, Definitions, "licensed marijuana property." [Amended 5-5-2020 by Order No. 19-874-01]

§ 161-1.3. Enforcement; violations and penalties.

A. No person, firm, corporation, or other entity shall:

- (1) Manufacture marijuana products or marijuana concentrate or engage in extraction except as authorized in the Code.
- (2) Cultivate marijuana for personal use and by caregivers as permitted the Maine Medical Use of Marijuana Act, Maine Marijuana Legalization Act, or state administrative rules, as appropriate, or as authorized in the Code. [Amended 5-5-2020 by Order No. 19-874-01]
- (3) Grow hemp outdoors as permitted in 7 M.R.S. § 2231 except when licensed by the State and the City. [Amended 4-19-2022 by Order No. 22-151-01]

B. This chapter shall be enforced by the Code Enforcement Officer and the Police Department according to the enforcement provisions specified in Chapter 90 and Chapter 149.

C. Any person, firm, or corporation, who violates any provision of this chapter or the terms of a license may be penalized in the same manner as specified in Chapter 90 and Chapter 149.

§ 161-1.4. Appeals.

An aggrieved party may appeal a final decision made in the enforcement of this chapter to the Board of Appeals within 30 days from the action of the official's final decision. The Board of Appeals shall have no authority to waive requirements of the Code. An order shall not be stayed during any such appeal.

§ 161-1.5. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

ARTICLE II

Marijuana Properties**[Amended 5-5-2020 by Order No. 19-874-01; 4-19-2022 by Order No. 22-151-01]****§ 161-2.1. Applicability.**

This article shall apply to the eight (8) marijuana properties as set forth in Chapter 280, Zoning. Notwithstanding anything to the contrary in 1 M.R.S. § 302, this article applies to any application relating to the establishment or operation of a marijuana property, whether or not such application had become a "pending proceeding" as defined in 1 M.R.S. § 302 prior to the enactment of this article.

§ 161-2.2. License required.

No person, firm, or corporation may operate a marijuana property without first obtaining a license for such purpose under Chapter 149, Licensing.

§ 161-2.3. Limit on number of marijuana property licenses granted.

The maximum number of marijuana property licenses that may be granted is eight (8).

§ 161-2.4. Disqualifications.

In addition to the general standards for denial, suspension, or revocation of a license and for investigation of applicants pursuant to Chapter 149, Licensing, elsewhere in the Code, a license may be denied, suspended, or revoked for one or more of the following reasons:

- A. Conviction of the applicant, licensee, or employee of the licensee or person representing the licensee of any crime involving dishonesty, deception, misappropriation, or fraud.

ARTICLE III
Marijuana Operations

[Amended 5-5-2020 by Order No. 19-874-01; 4-19-2022 by Order No. 22-151-01]

§ 161-3.1. Applicability.

This article shall apply to any person, firm, corporation, or other entity engaged in a marijuana operation, whether operated for profit or not for profit. Notwithstanding anything to the contrary in 1 M.R.S. § 302, this article applies to any application relating to marijuana operation or hemp grower, whether or not such application had become a "pending proceeding" as defined in 1 M.R.S. § 302 prior to the enactment of this article.

§ 161-3.2. License required.

No person, firm, or corporation may operate as a marijuana or hemp grower, or manufacturer without first obtaining a license for such purpose under Chapter 149, Licensing. Such licensed operations may only occur at a licensed marijuana property, except for hemp growing.

§ 161-3.3. Disqualifications.

In addition to the general standards for denial, suspension, or revocation of a license and standards for investigation of applicants pursuant to Chapter 149, Licensing, or elsewhere in the Code, a license may be denied, suspended, or revoked for one or more of the following reasons:

- A. Conviction of the applicant, licensee, or employee of the licensee or person representing the licensee of any crime involving dishonesty, deception, misappropriation, or fraud.

§ 161-3.4. Transportation of marijuana.

A licensee and his/her employees may transport marijuana, packaged marijuana, and marijuana products between the location of the licensed marijuana operation and another licensed marijuana operation. All transportation of marijuana, packaged marijuana, and marijuana products shall be documented by the licensee.

§ 161-3.5. Recordkeeping.

A licensee shall maintain records of all transactions for a minimum of one (1) year after the date of the transaction.

§ 161-3.6. Preexisting medical marijuana production facilities.

- A. No person shall have any entitlement or vested right to a license under this article. To lawfully operate a marijuana production operation, all businesses shall obtain a license under this chapter.
- B. A preexisting business operating under this chapter shall cease operation within forty-five (45) days after the issuance of a denial letter or revised denial letter, as applicable.

§ 161-3.7. Confidentiality for medical marijuana registered caregivers.

An individual who possesses a valid Maine State-issued medical marijuana primary caregiver registry identification card need not identify himself or herself in an application for a license for a medical marijuana operation. The cardholder shall identify him or herself and provide the relevant cards to the City Clerk for examination, but the identity of the cardholder shall not be a public record and the City Clerk shall not share the identity of the cardholder, except as necessary by law in the performance of his or her duties. At the time of application the cardholder may appoint a representative to appear before the City Council on his or her behalf. Advertisements for public hearing shall contain the location of the proposed medical marijuana operation, the owner of the real estate, and the identity of the designated representative. The City Clerk may certify to the City Council that the applicant meets the necessary legal requirements as a cardholder(s).

ARTICLE IV
Marijuana Stores

[Amended 5-5-2020 by Order No. 19-874-01; 4-19-2022 by Order No. 22-151-01]

§ 161-4.1. Statutory authority.

This article is enacted pursuant to the Marijuana Legalization Act, Title 28-B M.R.S. Chapter 1; and Municipal Home Rule Authority, Maine Constitution, Art. VIII, Pt. 2; and 30-A M.R.S. § 3001.

§ 161-4.2. Definitions.

For purposes of this article, "marijuana stores," are defined as set forth in 28-B M.R.S. § 102.

§ 161-4.3. Prohibitions enumerated; intent.

- A. Marijuana stores, are expressly prohibited in this municipality, except as permitted under Chapter 280, Zoning, and Chapter 149, Licensing.
- B. (Reserved)
- C. Nothing in this article is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, Title 22 M.R.S. Chapter 558-C.

§ 161-4.4. When effective; duration.

This article shall take effect immediately upon enactment by the City Council unless otherwise provided and shall remain in effect until it is amended or repealed.

ARTICLE V

Medical Marijuana Establishments
[Amended 4-19-2022 by Order No. 22-151-01]**§ 161-5.1. Prohibitions enumerated.**

- A. Indoor growing of industrial hemp is prohibited.
- B. Medical marijuana establishments as defined by 22 M.R.S. § 2422, including medical marijuana testing facilities and medical marijuana manufacturing facilities are authorized.

§ 161-5.2. When effective; duration.

This article shall take effect immediately upon enactment by the City Council unless otherwise provided and shall remain in effect until it is amended or repealed.

Town of Washburn

Adult Use and Medical Marijuana Businesses Ordinance

Supplement to Land Use Ordinances Section 7A

Approved by the Town of Washburn:

True Copy Attest: _____

Town Clerk

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Adult Use and Medical Marijuana Businesses

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A. Title:

This ordinance shall be known and cited as the “Town of Washburn Adult Use and Medical Marijuana Businesses Ordinance” and will be referred to hereinafter as “this Ordinance”. This Ordinance limits all subject Adult Use and Medical Marijuana Businesses to the zoning districts specified in section 4 & 5., prescribes definitions of Adult Use and Medical Marijuana Businesses, provides for permitting/licensing and regulation of Adult Use and Medical Marijuana Businesses, and provides performance standards for Adult Use and Medical Marijuana Businesses.

B. Authority and Applicability:

WHEREAS, implementing a system for the regulation of stores, dispensaries, cultivation, manufacturing, and testing for the production and sale of marijuana, is a complex function with significant administrative demands on the Town of Washburn; and

WHEREAS, ensuring that possession and use of Adult Use and Medical Marijuana is limited to persons who are 21 years of age or older, except in the case of minors in possession of a medical marijuana patient card, is necessary to protect those who have not yet reached adulthood from the effects of irresponsible use of marijuana; and

WHEREAS, the Town of Washburn believes that any production, processing, or selling of Adult Use and Medical Marijuana should be conducted in a safe and fair manner for the health, safety, and welfare of the community, which includes complying with provisions of all applicable laws and ordinances relating to adult use and medical use of marijuana throughout the Town of Washburn; and

NOW THEREFORE, this Ordinance is adopted pursuant to the Marijuana Legalization Act, 28-B M.R.S. §101 et seq.; the Maine Medical Use of Marijuana Act, 22 M.R.S. §2421 et seq.; and the Town’s home rule authority under Article VIII, Part 2, Section 1 of the Maine Constitution 30-A M.R.S. §3001 et seq., and 30-A M.R.S. §4301 et seq.

C. Purpose:

It is the purpose of this Ordinance to regulate Adult Use and Medical Marijuana Businesses in order to promote the health, safety, and general welfare of the citizens of Washburn, and to establish reasonable and uniform regulations for the appropriate location of Adult Use and Medical Marijuana Businesses in Washburn. Persons or entities wishing to establish an Adult Use or a Medical Marijuana Business within the Town of Washburn shall first obtain a license from the Washburn Town Council (hereinafter “the Town Council”) and shall be subject to the provisions of this Ordinance. This Ordinance may 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.

D. Conflict with Other Ordinances; State Law:

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply. Nothing herein is intended to conflict with State law; whenever a provision of this Ordinance conflicts with State law the more restrictive provision shall apply. All applicants and licensees shall comply with all applicable State laws.

E. Effective Date:

The effective date of this Ordinance, and the business licensing thereunder, shall be the date of adoption by the Town Council.

F. Validity and Severability:

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

G. Definitions:

Adult Use Cultivation facility: a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to Adult Use Products Manufacturing Facilities, to Adult Use Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Adult Use Marijuana Stores.

Adult Use Marijuana Nursery Cultivation Facility: a facility licensed under this ordinance to cultivate not more than 1,000 SF of plant canopy pursuant to 28-B M.R.S. §501.

Adult Use Marijuana Store: a facility licensed under this ordinance to purchase adult use marijuana, immature marijuana plants and seedlings from an Adult Use Cultivation Facility, to purchase adult use marijuana and adult use marijuana products from an Adult Use Products Manufacturing Facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult Use Marijuana Testing Facility: a facility licensed under this ordinance to develop, research and test adult use marijuana, adult use marijuana products and other substances.

Adult Use Products Manufacturing Facility: a facility licensed under this ordinance to purchase adult use marijuana from a cultivation facility or another product manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Code Enforcement Officer (CEO): a person, appointed by the Town Council, to administer and enforce Land Use Ordinances, Zoning Ordinances, Building Codes, and certain State Laws.

Cultivation or Cultivate: the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

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.

Immature marijuana plant: a marijuana plant that is not a mature marijuana plant or a seedling.

Law Enforcement Officer (LEO): means any officer, agent, or employee of a State, unit of local government, or Sheriff Deputy authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law. This includes full and part-time personnel.

Manufacture or Manufacturing: 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 means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana Business: Medical Marijuana Cultivation Facility, Medical Marijuana Manufacturing Facility, Medical Marijuana Testing Facility, Registered Dispensary, Registered Caregiver Retail Store, Adult Use Marijuana Cultivation Facility, Adult Use Marijuana Products Manufacturing Facility, Adult Use Testing Facility, or Adult Use Marijuana Store licensed under this Ordinance.

Medical Marijuana Cultivation Facility: a facility licensed under this ordinance to cultivate, prepare and package medical marijuana at a location that is not the residence of the Registered Caregiver or Qualifying Patient.

Medical Marijuana Manufacturing Facility: a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F.

Medical Marijuana Testing Facility: a public or private laboratory that:

- A. Is authorized in accordance with 22 M.R.S. §2423-A, subsection 10 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 State of Maine.

Medical Use: 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 qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.

Plant Canopy: the total surface area within the licensed premises of an Adult Use Marijuana Cultivation Facility that is authorized for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of non-contiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate

immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

Pre-School: A public or private institution that provides instruction to children who are 3 to 5 years of age

Qualifying patient: a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.

Registered caregiver: a person or an assistant of that person that provides care for a qualifying patient and who is registered by the State of Maine pursuant to 22 M.R.S. §2425-A.

Registered Caregiver Retail Store: a facility licensed to sell harvested marijuana to qualifying patients for the patients' medical use.

Registered Dispensary: an entity registered under 22 M.R.S. § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Testing or test: the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

H. License Required:

No person may establish, operate or maintain a Marijuana Business without first obtaining a Certificate of Occupancy from the CEO and a license from the Town Council.

It is a violation of this Ordinance for any person to operate a Marijuana Business without a valid Marijuana Business license issued by the Town pursuant to this Ordinance.

Pursuant to 28-B M.R.S. § 402, an applicant seeking to operate an Adult Use Marijuana Business may not submit an application for a license unless the applicant has been issued a conditional license by the State of Maine to operate the Adult Use Marijuana Business. Marijuana Business Licenses shall be administered on a first come, first served basis based upon the date the application is deemed complete.

The cultivation, manufacturing, testing or sale of adult use marijuana from a residence is prohibited, unless it is for personal use in accordance with 28-A M.R.S. § 1502. Home cultivation of adult use marijuana for personal use is exempt from the licensing requirements of this Ordinance. Provided, however, that outdoor cultivation of adult use marijuana for personal use is prohibited, unless the residence is located in an agricultural zoning district.

I. Application Procedure:

A. An application for a license must be made on a form provided by the Town.

B. All applicants must be qualified according to the provisions of this Ordinance.

Applicants shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this Ordinance.

C. Application to establish a Marijuana Business

1. If the applicant who wishes to operate a Marijuana Business is a single individual, this person must sign the application for a license. If the applicant who wishes to operate a Marijuana Business is more than one individual, each person who has an interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.
2. The completed application for a Marijuana Business license shall contain the following information and shall be accompanied by the following documents:
 - a. If the applicant is an individual: The individual shall state their legal name and any aliases, and submit proof that they are at least twenty-one (21) years of age.
 - b. If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.
 - c. If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.
 - d. If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.
 - e. If the applicant intends to operate the Marijuana Business under a name other than that of the applicant, they must state the Marijuana Business' name and submit the required registration documents.
 - f. If the applicant, an officer, member or employee has been convicted of criminal activity under State and/or federal law, they must list the specified criminal activity involved, and the date, place, and jurisdiction of each conviction.
 - g. If the applicant has had a previous license under this Ordinance or other similar Marijuana Business license applications in another town, city or state denied, suspended or revoked, they must list the name and location of the Marijuana Business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose license has previously been denied, suspended or revoked, listing the name and location of the Marijuana Business for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.

- h. If the applicant holds any other permits/licenses under this Ordinance or other similar Marijuana Business license from another town, city, or state the applicant shall provide the names and locations of such other permitted/licensed businesses.
 - i. The type of Marijuana Business for which the applicant is seeking a license.
 - j. The location of the proposed Marijuana Business, including a legal description of the property, street address, and telephone number.
 - k. Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.
 - l. The applicant's mailing address and residential address.
 - m. Recent passport-style photograph(s) of the applicant(s).
 - n. The applicant's driver's license.
 - o. A sketch showing the configuration of the subject premises, including building footprint, interior layout with floorspace to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.
 - p. A copy of a Town Tax Map depicting: the subject property lines and the property lines of other properties within one thousand (1,000) feet of the subject property; measured in accordance with Section J.A.3.
- 3. All applications for a Marijuana Business license shall be kept confidential by the Town.
 - 4. All applicants, including all individuals, officers, directors, managers, members, and partners, for any Adult Use Marijuana Business license, excepting Adult Use Marijuana Testing Facilities, must be residents of the State, as defined in 28-B M.R.S.A. §102, and a majority of shares, partnership interests, and membership interests, or other equity interests in corporate applicants must be held or owned by persons who are residents.

All applicants, including all individuals, officers, directors, managers, members, and defined partners, for any Medical Marijuana Business license must be residents of the State, as in 22 M.R.S. § 2422.

- 5. If an applicant is a person, the person must be a resident as that term is defined in the application. If the applicant is a corporation, partnership, or limited liability company, every officer, and managing partner must be a person who is a resident, and a majority of shares, partnership interests, or other equity interests must be held or owned by persons who are residents. The residency requirement does not apply to applicants for testing licenses.

D. Application and License Fees All applications must be submitted with a (SEE SCHEDULE A) fee. If an application is approved, the following license fees must be paid before the Town will issue a license:

Marijuana Store: Annual Operation License Fee: (SEE SCHEDULE A)

Marijuana Manufacturing Facility: Annual Operation License Fee: (SEE SCHEDULE A)

Marijuana Testing Facility: Annual Operation License Fee: (SEE SCHEDULE A)

Adult Use Marijuana Cultivation:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: (SEE SCHEDULE A)

Tier 2: 501-2,000 SF of mature plant canopy: Annual License Fee: (SEE SCHEDULE A)

Tier 3: 2,001-7,000 SF of mature plant canopy: Annual License Fee: (SEE SCHEDULE A)

Tier 4: > than 7,000SF of mature plant canopy: Annual License Fee(SEE SCHEDULE A)

Medical Marijuana Cultivation: Annual Operation License Fee: (SEE SCHEDULE A)

Adult Use Marijuana Nursery Cultivation: Annual License Fee: (SEE SCHEDULE A) (Plant canopies of individual Nursery Cultivations are permanently capped at 1,000 SF.)

Renewal applicants for Adult Use Marijuana Cultivation licenses may seek an increase to a higher tier if they comply with the requirements in this section. Applicants for Adult Use Marijuana Cultivation licenses may not hold more than three (3) such licenses or a total combined plant canopy in excess of 30,000 SF.

I. Standards for Permit:

A. General

1. All Marijuana Businesses shall comply with applicable state and local laws and regulations.
2. Marijuana Businesses shall only be located within the zoning districts permitted in section E. below.
3. Marijuana Businesses may not be located on property within five hundred 500 feet of the property line of a preexisting public or private school (K-12). For the purposes of this Ordinance, "school" includes a public school, private school as defined in 20-A M.R.S.A. §1:
Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the Marijuana Business is located. If the Marijuana Business is located within a commercial subdivision, the required setback shall be measured from the front door of the Marijuana Business to the property line of the school. Presence of a town, city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
4. Marijuana Businesses may not be located on property within one hundred fifty (150) feet of the property line of a parcel containing one or more other Marijuana Businesses, a Church, Pre-School, Day Care, or Community Center. Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the front doors of existing primary structures of the parcels of land on which the Marijuana Businesses are located. If the Marijuana Business is located within a commercial subdivision, the required setback shall be measured from the front door of each of the Marijuana Businesses. Presence of a town, city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

Adult Use and Medical Marijuana Cultivation Facilities and Adult Use and Medical Marijuana Manufacturing Facilities operating within the industrial zoning district are exempt from this setback requirement.

5. No outside cultivation or storage of marijuana, marijuana products, or related supplies is permitted, except that outdoor cultivation of marijuana in the Agricultural Farming / Forestry District is permitted.
6. Pursuant to 22 M.R.S. §2429-D(3), Registered Caregiver Retail Stores, Registered Dispensaries, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facilities, as well as Medical Marijuana Cultivation Facilities, that were operating with Town approval prior to December 13, 2018, are grandfathered in their current location and current use and shall be treated as legally non-conforming uses in accordance with the Town of Washburn Ordinance if their location or use is not in conformance with this ordinance or applicable zoning ordinances, provided, however, that said Marijuana Businesses shall apply for and obtain a license.
7. The holder of a license for a Medical Marijuana Cultivation Facility or a Medical Marijuana Manufacturing Facility that complies with all applicable provisions of this Ordinance and the Washburn Zoning Ordinance, may exchange their license for an Adult Use Cultivation Facility or Adult Use Manufacturing Facility license in the same location, provided they meet all requirements and standards to operate an Adult Use Cultivation Facility or Adult Use Manufacturing Facility, with the exception of the required setbacks between facilities and schools. Said holder must file an application and pay a (*SEE SCHEDULE A*) fee.

The holder of a license for a Registered Caregiver Retail Store that complies with all applicable provisions of this Ordinance and the Presque Isle Zoning Ordinance may exchange their license for an Adult Use Marijuana Store license in the same location, provided they meet all requirements and standards to operate an Adult Use Marijuana Store. Said holder must file an application and pay a (*SEE SCHEDULE A*) fee.

8. All Adult Use Marijuana Stores and Registered Caregiver Retail Stores must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer pays for and picks up such orders in the store on the day the order is made, an exception is made for Registered Caregiver Retail Stores whereas it may be a necessity for the business to deliver medical marijuana to a patient. These deliveries will be made by the business and no contracted/paid delivery service will be authorized. Delivery must be made directly to the Qualified Patient and proper identification is verified.
9. Adult Use Marijuana Stores and Registered Caregiver Retail Stores may not use vending machines for sales, may not have "drive-through" or "drive-up" window serviced sales, and may not have internet-based sales with credit/debit card payment and delivery by USPS, UPS, FedEx, DHL, or any other global or local delivery service or courier.
10. Security measures at all Marijuana Business premises shall include, at a minimum, the following:
 - a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and
 - b. Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and

- c. A locking safe permanently affixed to the premises that is suitable for storage of all marijuana, marijuana products, and cash stored overnight on the licensed premises; and
- d. Exterior lighting that illuminates the exterior walls of the licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable light pollution standards established in the Technical Assistance Bulletin (Lighting Manual) produced by the State Planning Office; and
- e. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and
- f. Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

11. Ventilation

All Marijuana Businesses are required to be in compliance with Odor Nuisance Control and Abatement Performance Standards, and all Marijuana Cultivation facilities shall have odor mitigation systems and a plan sufficient to mitigate potential nuisance conditions at property lines.

12. Operating Plan

Marijuana Businesses which cultivate, test, and/or manufacture are required to submit an operation plan that at a minimum addresses the following:

- a. wastewater; and
- b. disposal of waste.

13. Required Notices

There shall be posted in a conspicuous location inside each Marijuana Store, at least one legible sign containing the following information: On-site consumption of marijuana is illegal; Open and public consumption of marijuana in the State of Maine is illegal; The use of marijuana or marijuana products may impair a person's ability to drive a car or operate machinery; No one under the age of twenty-one (21) may purchase marijuana or marijuana products, except a minor with medical marijuana card; Loitering prohibited.

14. Signs

All signs used by and all marketing and advertising conducted by or on behalf of the marijuana business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age. The signs, marketing, or advertising is prohibited from making any health or physical benefit claims. All signage shall meet the Town's Land Use Sign standards and may use an image or images of the marijuana plant or plants, or parts thereof, as long as they do not exceed 20% of the sign face, but there shall be no pictorial representations of other marijuana products, by-products, or paraphernalia associated with the use or distribution of retail marijuana. There shall be no flags waving for promotion. The exterior of all Marijuana Stores shall display a 1' x 1' image of any universal symbol for Medical or adopted by the State's Department of Administration and Financial Services.

- B. Right of Access/Background Check/Inspection Every Marijuana Business shall allow law enforcement officers and the Washburn Code Enforcement Officer ("CEO") to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance. All premises managers for Marijuana Businesses shall submit emergency contact information to the Washburn 911 Communication Center. All business assets shall be reported to the Town Assessor annually. Due to fire, explosion, and other hazards inherent in Marijuana Cultivation, Testing, and Manufacturing facilities, including, but not limited to, heavy electrical loads, hot lighting fixtures, CO2 enrichment, extraction solvents (acetone, butane, propane, ethanol, heptane, isopropanol, CO2, etc.), high-pressure extraction methods (CO2, etc.), and flammable contents, the owners of all such facilities shall agree to be inspected

annually by the Washburn Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access. Knox Boxes shall be obtained and installed in coordination with the Washburn Fire Department.

- C. Indemnification By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Marijuana Business owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations.

By accepting a license issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a permitted/licensed Marijuana Business.

D. State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, cultivation, manufacture, distribution, or testing of Marijuana or Marijuana products, the additional or stricter regulation shall control the establishment or operation of any Marijuana Business in Washburn.

Compliance with all applicable State laws and regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with State laws or regulations shall be grounds for revocation or suspension of any license issued hereunder.

E. Zoning

All applications for business subject to review by this ordinance shall be submitted to the CEO for initial review for conformance with the standards of this ordinance. Within 10 business days of receipt of an application the CEO shall inform the applicant in writing in the event that the application is found to be incomplete.

A Certificate of Occupancy shall be issued by the Code Officer upon inspection of the premises and finding that the building or buildings are in compliance with applicable Building, Electrical, and Plumbing Codes adopted by the Town of Washburn.

LAND USE CHART			
CLASSIFICATION	ALLOWABLE ZONES	PERMITTING AUTHORITY	MINIMUM LOT SIZE
Marijuana Store	B-1	CEO	None
Marijuana Manufacturing Facility	I-1	CEO	5 AC
Marijuana Testing Facility	B-1, I-1	CEO	None
Marijuana Cultivation Facility			
Tier 1 0 to 500 SF mature canopy	B-1, I-1	CEO	.25 AC
Tier 2 501 to 2,000 SF mature canopy	B-1, I-1	CEO	.5 AC
Tier 3 2,000 to 7,000 SF mature canopy	I-1	CEO	.5 AC
Tier 4 > 7,000 SF mature canopy	I-1	CEO	1 AC
Nursery - Marijuana Cultivation	I-1	CEO	1 AC

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K. Enforcement

A. Violations

1. Any violation of this Ordinance, including failure to comply with any condition, may be enforced in accordance with 30-A M.R.S. §4452. Every day a violation exists constitutes a separate violation.
2. Commencement of any Marijuana Business without a Town license for same shall be a violation of this Ordinance. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the Code Enforcement Officer (CEO). Upon such CEO notification, the Town can pursue fines and/or penalties under 30-A M.R.S. §4452.

B. Law Enforcement Officer ("LEO") and Code Enforcement

Law enforcement officers and the CEO may at any reasonable time conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to license approvals and shall investigate all complaints of alleged violations of the Ordinance.

1. If the LEO or CEO finds that any provision of this Ordinance is being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including but not limited to, discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the Town Council and be maintained as a permanent record.
2. The LEO or CEO shall keep a complete record of all essential transactions of the LEO or CEO, including Marijuana license applications submitted, permits/licenses granted or denied, training certifications, revocation actions, revocation of permits/licenses, appeals, court actions, violations investigated, violations found, and fees collected.

C. Legal Actions

When the above notification and/or inspection actions do not result in the voluntary correction or abatement of the violation by the subject Marijuana Business, the Town Council, upon receiving written notification from the LEO or CEO, may institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance.

The Town Council, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.

D. Penalties/Fines

Any person, including but not limited to, a Marijuana Business owner, a property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this Ordinance, or fails to comply with any of its requirements, shall be penalized in accordance with 30-A M.R.S. §4452. Fines of \$100.00 to \$5,000.00 per day, as levied by the Town Council may result. All fines will be paid to the Town of Washburn.

L. Training:

A. Individuals who sell marijuana and marijuana products, pursuant to a Marijuana Store business license, must complete responsible marijuana vendor sales practices training, if and when such training is available. This training may be completed online and an employee must be certified within 30 days of employment.

B. Recordkeeping

Marijuana Store licensees shall maintain on the licensed premises, written records of the vendor training programs completed by individuals who sell marijuana and marijuana products and shall produce those records upon request by the CEO or LEO with the Presque Isle Police Department.

C. Failure to comply with the training requirements

Failure to meet the training requirement imposed by L. A., may result in the denial/revocation of a Marijuana Business license.

M. Appeals:

If the Town of Washburn fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality within 90 days after the date the person submitted the request to the Town, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with rule 80B of the Maine Rules of Civil Procedure, except that, if the Town notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the Town fails to act on the request within 180 days after the date the person submitted the request to the Town.

N. Fees & Application:

The fee schedule of this Adult Use and Medical Marijuana Businesses Ordinance shall be reviewed and set annually each December by the Washburn Town Council.

Town staff shall design an application form that is compliant with this ordinance to be used for all Marijuana Business applications. Changes to this form will be reported to the Town Council at the next available Council Meeting.

O. Sunset Provision:

This Ordinance shall be in force for the term of four (4) years from its effective date noted. This Ordinance shall become null and void upon the expiration of four (4) years from said effective date: unless recommended and required by the Town Council to remain effective prior to such expiration date.

Schedule "A"

Schedule of Fees

The fee schedule of this Adult Use and Medical Marijuana Businesses Ordinance shall be reviewed and set annually each December by the Washburn Town Council.

All applications must be submitted with a **\$500.00** fee to be deemed complete.

Marijuana Store: Annual Operation License Fee: **\$2,500.00**

Marijuana Manufacturing Facility: Annual Operation License Fee: **\$2,500.00**

Marijuana Testing Facility: Annual Operation License Fee: **\$1,000.00**

Adult Use Marijuana Cultivation:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: **\$500.00**

Tier 2: 501-2,000 SF of mature plant canopy: Annual License Fee: **\$3,000.00**
Tier 3: 2,001-7,000 SF of mature plant canopy: Annual License Fee: **\$10,000.00**
Tier 4: > than 7,000SF of mature plant canopy: Annual License Fee: **\$30,000.00**

Medical Marijuana Cultivation: Annual Operation License Fee: **\$5,000.00**

Adult Use Marijuana Nursery Cultivation: Annual License Fee: **\$350.00**

The holder of a license for a Registered Caregiver Retail Store that complies with all applicable provisions of this Ordinance and the Washburn Zoning Ordinance may exchange their license for an Adult Use Marijuana Store license in the same location, provided they meet all requirements and standards to operate an Adult Use Marijuana Store. Said holder must file an application and pay a **\$500.00** fee.

The holder of a license for a Adult Use Marijuana Store that complies with all applicable provisions of this Ordinance and the Washburn Zoning Ordinance may exchange their license for an Registered Caregiver Retail Store license in the same location, provided they meet all requirements and standards to operate an Adult Use Marijuana Store. Said holder must file an application and pay a **\$500.00** fee.

Ken Murchison

From: Penny Thompson
Sent: Thursday, November 3, 2022 2:50 PM
To: Ken Murchison
Subject: Next Planning Board

Good afternoon –

Per our conversation:

Next Planning Board meeting. Lets come up with a way (look to PI if you need to, their ordinances must be online) to streamline the subdivision process to get an ordinance change done in the next couple of months.

We need to capitalize on the interest to build more housing.

Penny Thompson

City Manager

City of Caribou Maine

(207) 493 – 5961 (direct line)

pthompson@cariboumaine.org

Chapter 275

SUBDIVISION OF LAND

[HISTORY: Adopted by the Town of Sanford 11-16-1999; as amended 11-18-2003. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 8.

Floodplain management — See Ch. 265.

Building construction and fire prevention — See Ch. 90.

Shoreland zoning — See Ch. 270.

Streets, sidewalks and public areas — See Ch. 226.

Zoning — See Ch. 280.

ARTICLE I
General Provisions

§ 275-1. Purpose.

The purposes of this chapter are to:

- A. Provide for the expeditious, equitable, and efficient review of proposed subdivisions;
- B. Establish standards for the application of the approval criteria of the State Subdivision Law, found in 30-A M.R.S.A. § 4401 et seq.;
- C. Assure that development in the Town of Sanford meets the goals and conforms to the policies of the adopted Comprehensive Plan;
- D. Assure the comfort, convenience, safety, health, and welfare of the people of the Town of Sanford;
- E. Protect the environment and conserve the natural and cultural resources identified in the adopted Comprehensive Plan as important to the community;
- F. Assure that an adequate level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions can support the proposed uses and structures;
- G. Minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- H. Promote the development of an economically sound and stable community.

§ 275-2. Authority; title.

- A. This chapter has been prepared in accordance with the provisions of 30-A M.R.S.A. § 4403.
- B. This chapter shall be known and may be cited as the "Subdivision Ordinance of the Town of Sanford, Maine."

§ 275-3. Administration; applicability.

- A. The Planning Board of the Town of Sanford, hereinafter called the "Board," shall administer this chapter.
- B. The provisions of this chapter shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Sanford.

§ 275-4. Amendments.

- A. This chapter may be amended by vote of the Town Council of the Town of Sanford.
- B. The Planning Board shall hold a public hearing prior to the adoption of any amendments to this chapter. Notice of the public hearing shall be provided at least seven days in advance of the hearing.

ARTICLE II Definitions

§ 275-5. Word usage.

In general, words and terms used in this chapter shall have their customary dictionary meanings. More specifically, any word or term defined in the most recent revision of Chapter 280, Zoning, of the Town Code shall have the definition contained in that chapter, unless defined differently below.

§ 275-6. Definitions.

Other words and terms used herein are defined as follows:

AFFORDABLE HOUSING — Housing units that will meet the sales price and/or rental targets established by the Comprehensive Plan for housing affordability.

APPLICANT — The person applying for subdivision approval under these regulations.

AVERAGE DAILY TRAFFIC (ADT) — The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

BUFFER AREA — A part of a property or an entire property which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g., noise, dust, visibility, glare, etc.) on adjacent areas.

CAPITAL IMPROVEMENTS PROGRAM (CIP) — The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

CAPITAL INVESTMENT PLAN — The portion of the Comprehensive Plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

CLUSTER DEVELOPMENT — A subdivision meeting the requirements of § 280-89 of Chapter 280, Zoning, in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent common open space.

COMMON OPEN SPACE — Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements typically used for maintenance and operation of the open space, such as for outdoor recreation.

COMPLETE APPLICATION — An application shall be considered complete upon submission of the required fee and all information required by these regulations or by a vote of the Planning Board to waive the submission of required information. The Planning Director shall issue a written statement to the applicant upon his determination that an application is complete.

COMPREHENSIVE PLAN — The Town of Sanford Comprehensive Plan as adopted by the Town's legislative body.

CONCEPTUAL PLAN — A preliminary plan showing the major features of the site and development concepts in a generalized format.

CONSERVATION EASEMENT — A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use, protecting natural resources, or maintaining air or water quality.

DENSITY — The number of dwelling units per acre of land.

DEVELOPED AREA — Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

DIRECT WATERSHED OF A GREAT POND — That portion of the watershed that drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the Comprehensive Plan. Due to the scale of the map in the Comprehensive Plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered professional engineer showing where the drainage divide lies.

DRIVEWAY — A vehicular accessway serving two dwelling units or fewer.

ENGINEERED SUBSURFACE WASTEWATER DISPOSAL SYSTEM — A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater or more per day or any system designed to be capable of treating wastewater with higher BOD5 and total suspended solids concentrations than domestic wastewater.

FINAL PLAN — The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

FRESHWATER WETLAND — Areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and that are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

GREAT POND — Any inland body of water that in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres. For the purposes of these regulations, no artificially formed or increased pond will be considered a great pond if it is completely surrounded by land held by a single owner.

HIGH-INTENSITY SOIL SURVEY — A map prepared by a certified soil scientist identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high-water table or bedrock at that location. Single soil test pits

and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high-intensity soil surveys.

HIGH-WATER MARK — That line that is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation that distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland and not the edge of the open water.

INITIATE CONSTRUCTION — The completion of a portion of the improvements which represents no less than 30% of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

LEVEL OF SERVICE — A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1991 Edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays, to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

MEDIUM-INTENSITY SOIL SURVEY — A map identifying the soil types down to mapping units of three acres or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey.

MULTIFAMILY DEVELOPMENT — A subdivision that contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums, or mobile home parks.

NEW STRUCTURE OR STRUCTURES — Includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

ONE-HUNDRED-YEAR FLOOD — The highest level of flooding that, on the average, has a one-percent chance of occurring in any given year.

PLANNING BOARD — The Planning Board of the Town of Sanford.

PLANNING DIRECTOR — The staff person responsible for the direction of the Planning Department, his/her designee, or other person designated by the Town Council to be responsible for development review.

PRELIMINARY PLAN — The preliminary drawings showing the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

PROFESSIONAL ENGINEER — A professional engineer registered in the State of Maine.

PUBLIC WATER SYSTEM — A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

RECORD DRAWINGS — Scaled detailed drawings of the completed or encountered existing infrastructure within a public right-of-way or easement. The plans shall be prepared and organized in a form that is consistent with the design plans submitted for Planning Board review during the subdivision approval process or engineering review by the Town Engineer. The plans shall be drawn and noted with field measurements, i.e., three-way ties, made by the contractor installing the infrastructure. The plans shall note the infrastructure materials, widths, diameters, elevations, service connection locations at the main and the right-of-way line, ledge profile, permanent reference benchmark, and other appropriate data necessary to show the completed or encountered existing infrastructure. The record drawing plan set shall include a copy of the signed plat.

RECORDING PLAN — An original of the final plan, suitable for recording at the Registry of Deeds, that shows only information relevant to the transfer of an interest in the property and which does not show other information presented on the plan, such as sewer and water line locations and sizes, culverts, and building lines.

RESERVED AFFORDABLE HOUSING — Affordable housing that is restricted by means of deed covenants, financing restrictions, or other long-term binding methods to occupancy by households making 80% or less of the area median household income.

SIGHT DISTANCE — The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. It is used in these regulations as a reference for unobstructed road visibility.

SITE INVENTORY AND ANALYSIS — Inventory maps, renderings, and supporting data describing the site proposed to be subdivided and analyzing the opportunities and constraints for subdivision and development. The inventory and analysis are submitted for initial review prior to submitting a formal application for subdivision approval.

SKETCH PLAN — A preliminary plan showing the major features of the site and the preliminary, generalized layout of proposed roads, lots, and other improvements.

STREET CLASSIFICATION —

- A. **ARTERIAL STREET** — Those streets listed in the definition of "arterial" in Chapter 280, Zoning.
- B. **COLLECTOR STREET** — Those existing streets listed in the definition of "collector" in Chapter 280, Zoning, or a proposed street that has a projected average daily traffic of 1,000 or more trips.
- C. **CUL-DE-SAC** — A street with only one outlet and having the other end for the reversal of traffic movement.
- D. **COMMERCIAL STREET** — Streets servicing industrial or commercial uses.
- E. **LOCAL STREET** — An existing street not defined as an arterial or collector or a proposed street which has a projected average daily traffic of fewer than 1,000 trips.
- F. **PRIVATE WAY** — A minor street meeting the requirements of § 280-85 of Chapter 280, Zoning.

SUBDIVISION — The division of a tract or parcel of land into three or more lots within any five-year period that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or

otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five-year period, the construction or placement of three or more dwelling units on a single tract or parcel of land, and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five-year period.

- A. In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel shall be considered to create the first two lots and the next dividing of either of the first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless:
- (1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in 36 M.R.S.A. § 1102 for a period of at least five years before the second dividing occurs; or
 - (2) The division of the tract or parcel is otherwise exempt under this definition.
- B. A lot of 40 or more acres shall not be counted as a lot, except where the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in 38 M.R.S.A. § 435 or Chapter 270, Shoreland Zoning, of the Town Code.
- C. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If real estate exempt under this subsection by a gift to a person related to the donor by blood, marriage or adoption is transferred within five years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition. The grant of bona fide security interest in an entire lot that has been exempted from the definition under this subsection, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of these regulations.
- D. In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

SUBDIVISION, DEVELOPMENTAL — Any activity meeting the state definition of "subdivision" that is not a major or minor subdivision.

SUBDIVISION, MAJOR — Any subdivision containing 10 or more lots or dwelling units or any subdivision requiring any new street or municipal facilities.

SUBDIVISION, MINOR: — Any subdivision containing nine or fewer lots or dwelling units. All lots shall be located on an existing, accepted public street, and no new public services or extensions of municipal facilities shall be required.

TOWN ENGINEER — Any registered professional engineer hired or retained by the

Town, either as staff or on a consulting basis.

TRACT OR PARCEL OF LAND — All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

USABLE OPEN SPACE — That portion of the common open space which, due to its slope, drainage characteristics and soil conditions, can be used for active recreation, horticulture or agriculture. To be considered usable open space, the land must not be poorly drained or very poorly drained or have ledge outcroppings or areas with slopes exceeding 10%.

ARTICLE III
Administrative Procedures
[Amended 1-18-2005]

§ 275-7. Planning Board procedures; agenda for meetings.

To establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall adopt Planning Board procedures governing the handling of application submissions, including the establishment of a submittal deadline for being placed upon the Board's agenda. The Planning Director shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Except for good cause shown and as otherwise permitted by law, the Board shall take no action on any application not appearing on the Board's written agenda.

§ 275-8. Application and development review fees.

- A. Application fees. Each application requires the payment of a nonrefundable application fee. These fees vary based upon the type of application. They are itemized in the chart included at the end of this chapter.
- B. Development review fee. The Town may use contracted staff such as the Town Engineer or Town Attorney or outside consultants to review those aspects of a subdivision proposal that are outside of the expertise of Town staff. The cost of this outside review shall be borne by the applicant. To cover the cost of this outside review, an applicant shall deposit a development review fee with the Planning Department at the time of the submission of an application. The Planning Department shall maintain a project account for each application showing the amounts of the deposits and the charges incurred for review of the subdivision proposal. The initial deposit for an application is shown on the chart included at the end of this chapter. If the amount initially deposited in the project account is drawn down by 75% or more, the Planning Department shall notify the applicant and require that an additional amount equal to 50% of the initial deposit be submitted. The Department shall continue to notify the applicant and require additional deposits as needed. The applicant may also be required, as a condition of approval, to post additional amounts to cover the cost of construction compliance review. No certificates of occupancy are to be issued until all outstanding fees have been paid. Any balance in the account remaining after a decision on the final acceptance of the project by the Planning Director, Town Engineer and Code Enforcement Officer shall be returned to the applicant. Payment of this fee may not be waived. Further, payment of the fee shall be deemed a cost of review and shall not be contingent on plan approval. Any individual or firm who has an outstanding review account balance is not eligible to submit a new site plan or subdivision application or to obtain any building permits until the outstanding balance is paid in full. **[Amended 6-16-2015 by Order No. 15-67.09]**

ARTICLE IV
Preapplication Procedures

§ 275-9. Purpose.

The purpose of the preapplication process is for the applicant to present general information regarding the proposed subdivision to the staff and Board and receive the staff's and Board's comments prior to the expenditure of substantial sums of money on surveying and engineering by the applicant.

§ 275-10. Activities.

The preapplication phase consists of the following four activities:

- A. A preapplication conference and site inspection.
- B. The classification of the project.
- C. The determination of the contour interval.
- D. The submission and review by the Board of a site inventory and analysis.

§ 275-11. Preapplication conference and site inspection.

- A. All applicants for subdivision review shall schedule a preapplication conference with the Planning Director. The purpose of this activity is to familiarize the applicant with the Town's procedures and requirements and to familiarize the Town's representatives with the nature of the project. Such review shall not cause the plan to be a pending application or proceeding under 1 M.R.S.A. § 302. No decisions relative to the plan shall be made at this meeting.
- B. The preapplication conference shall be held by the Planning Director. The Planning Director may ask other Town staff, such as the Town Engineer and a representative of the Planning Board, to participate in the preapplication conference if warranted by the scale and/or nature of the proposal. As part of the meeting, the Town representative(s) and the applicant may visit the proposed site. At this meeting, the applicant shall be prepared to discuss his/her plans for the development in a general nature.

§ 275-12. Classification of subdivision.

Within 10 days of the preapplication conference and site inspection, the Planning Director shall tentatively classify the subdivision as a minor or major subdivision and advise the applicant of this determination. The Planning Board shall review the classification of the project when it first considers the application and shall determine if it is a major or minor subdivision. The classification may later be revised if the scope of the project changes.

§ 275-13. Contour interval.

Within 10 days of the tentative classification of the project by the Planning Director, the Town Engineer shall inform the applicant in writing of the required contour interval on

the preliminary plan, or final plan in the case of a minor subdivision. The applicant may appeal the Engineer's determination to the Planning Board by filing a written request with the Planning Director. This request will be considered by the Planning Board at the next meeting at which the application is considered.

§ 275-14. Site inventory and analysis procedures.

- A. After the preapplication conference has been held, the applicant must submit a site inventory and analysis for Planning Board review. The Planning Board may waive this requirement or reduce the amount of information required for the revision of previously approved plans and for minor subdivisions involving fewer than five lots. The Board may waive or reduce the requirements only if the Board finds that the analysis provided by this process is not necessary due to the scale of the project. Unless waived by the Board, this review must be completed prior to the preparation and submission of a subdivision application and supporting documentation. The Board shall review the site inventory and analysis with the applicant and shall authorize the submission of the formal application when the site analysis phase is complete. The site inventory and analysis shall be submitted to the Planning Director.
- B. Upon receipt of a site inventory and analysis, the Planning Director shall give the applicant a dated receipt. Within 10 days of the receipt of a site inventory and analysis submission, the Planning Director shall review the material and determine whether the submission is complete. If the submission is determined to be incomplete, the Planning Director shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is found to be complete. When the submission is determined to be complete, the Planning Director shall notify the applicant in writing of this finding, place the item on the agenda for review by the Planning Board, and distribute copies of the submission to the members of the Site Plan Review Committee for their review.
- C. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the inventory and analysis are considered. The Board may decide not to hold an on-site inspection. If a review is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the site inventory and analysis may be extended, which extension shall not exceed 30 days after the Board is able to conduct an on-site inspection.
- D. Within 60 days of the Planning Director finding that the site inventory and analysis submission is complete, the Board shall complete its review of the submission and notify the applicant in writing of its findings.
- E. The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should

be used and developed. The Board shall also consider any input received from members of the staff. The outcome of the review process shall be the identification by the Board of the issues and constraints that must be addressed in the formal subdivision application. The Board shall also act on any requests for waivers at this time.

§ 275-15. Site inventory and analysis submission requirements.

The site inventory and analysis are intended to provide the applicant, the Planning Board, and the staff with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a subdivision plan that reflects the conditions of the site; those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information. The site inventory and analysis submission must contain, at a minimum, the following information:

- A. The names, addresses, and phone numbers of the record owner and the applicant.
- B. The names and addresses of all consultants working on the project.
- C. Evidence of right, title, or interest in the property.
- D. The appropriate application fee.
- E. Fifteen copies of an accurate scale inventory plan of the parcel at a scale of not more than 50 feet to the inch showing as a minimum:
 - (1) The proposed name of the development, North arrow, date, and scale.
 - (2) The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
 - (3) The relationship of the site to the surrounding area.
 - (4) The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. ten-foot contours will be adequate).
 - (5) The major natural features of the site and within 500 feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats or other important natural features (if none, so state).
 - (6) Existing buildings, structures, or other improvements on the site (if none, so state).
 - (7) Existing restrictions or easements on the site (if none, so state).
 - (8) The location and size of existing utilities or improvements servicing the site (if none, so state).
 - (9) The soils on the site through a Class C medium-intensity soil survey.

- (10) Any potential sources of fire protection water supply within 1/2 mile of the site, including public water mains, existing fire ponds, or possible sources of water supply.
- F. Fifteen copies of a site analysis plan at the same scale as the inventory plans (see Subsection E above) highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine: which portions of the site are unsuitable for development or use; which portions of the site are unsuitable for on-site sewage disposal if public sewerage is not available; which areas of the site have development limitations (steep slopes, soil constraints, aquifers, wetlands, wildlife habitat, floodplains, drainage, etc.) that should be addressed in the subdivision plan; which areas of the site may be subject to off-site conflicts or concerns (noise, lighting, traffic, etc.); and which areas are well suited for the proposed use.
- G. Fifteen copies of a narrative describing the existing conditions of the site, the proposed development, and the constraints and opportunities created by the site. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations together with any preliminary studies done relative to the site, including wetland delineations, traffic studies, market studies, or other information that will help the Board understand the project.
- H. Fifteen copies of a conceptual plan, drawn at the same scale as the site analysis plan, showing the anticipated road layout and major development features or, if the subdivision is classified as a minor subdivision, a sketch plan, drawn at the same scale as the site analysis plan, showing the tentative layout of lots and roads.
- I. Written requests for any waivers from the minor subdivision or preliminary major subdivision submission requirements or development standards of Article XI.

ARTICLE V
Minor Subdivision

§ 275-16. General provisions.

The Board may require that a minor subdivision comply with some or all of the submission requirements for a major subdivision. The additional information may be required when the Planning Board finds it necessary to decide if the criteria for approval from 30-A M.R.S.A. § 4404 or the standards from Article X of these regulations have been met.

§ 275-17. Procedure.

- A. Within six months after the classification of the project as a minor subdivision and the review or waiver of the site inventory and analysis by the Board, the applicant shall submit an application for approval of a final plan. Applications shall be submitted to the Planning Department. Failure to submit the application within six months shall require resubmission of the inventory and analysis to the Board. The final plan shall reflect the opportunities and constraints identified in the site inventory and analysis and address any issues identified by the Planning Board in the review of the site inventory and analysis.
- B. Upon receipt of an application, the Planning Department shall issue the applicant a dated receipt for the application.
- C. Within 10 days of the receipt of the final plan application, the Planning Director shall determine whether the application is complete. If the application is complete, the Planning Director shall notify the applicant in writing of the determination. If the application is not complete, the Planning Director shall notify the applicant of the specific additional material needed to complete the application and that the application will not be considered by the Board until the additional information is provided.
- D. Once the Planning Director has determined that the application is complete, the Planning Director shall:
 - (1) Place the item on the agenda for the next regularly scheduled workshop meeting of the Planning Board for which the appropriate notification can be given.
 - (2) Distribute the application to the members of the Site Plan Review Committee for their review and comment.
 - (3) Notify all owners of abutting property in writing that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision, including a general description of the project, and advising the abutters of the date, time, and location of the workshop and public hearing at which the application will be considered by the Board.
 - (4) Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.

- E. The applicant, or his/her duly authorized representative, shall attend the workshop and meetings of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's consideration of the plan until the next meeting that the applicant attends.
- F. Following review of the application at a workshop meeting, the Board shall hold a public hearing on the application at its next regular meeting. Prior to the hearing, the Board shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times. The date of the first publication shall be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant.
- G. Within 45 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions relative to the criteria contained in 30-A M.R.S.A. § 4404 and the standards of Article X. If the Board finds that all the criteria of the statute and the standards of Article X have been met, the Board shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article X have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including findings, conclusions and any reasons for denial or conditions of approval.

§ 275-18. Submissions.

- A. The final plan application shall consist of the following items:
 - (1) A fully executed and signed copy of the application for minor subdivision review (provided by the Town).
 - (2) A location map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - (a) Existing subdivisions in the proximity of the proposed subdivision.
 - (b) Locations and names of existing and proposed streets.
 - (c) Boundaries and designations of zoning districts.
 - (d) An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
 - (3) The required application and development review fees.
 - (4) A complete list of abutters and the owners of any parcel abutting an abutter if it is located within 250 feet of the subject parcel, together with their mailing addresses.
 - (5) The final subdivision plan and supporting documentation consisting of 15 copies of one or more maps or drawings drawn to a scale of not more than 50

feet to the inch and 15 copies of supporting documentation bound in a single report. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 100 feet to the inch provided that all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the plan(s) reduced to a size of 11 by 17 inches shall be provided.

- B. Prior to the meeting at which action on the plan is anticipated to be taken, the applicant shall submit two reproducible, stable-based transparencies of the subdivision plan, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan.
- C. The subdivision plan and supporting documentation shall include at least the following information:
 - (1) Proposed name of the subdivision or identifying title, the name of the municipality, and the Assessor's map and lot numbers.
 - (2) The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan and adjoining property owners.
 - (3) The date the plan was prepared, North point, and graphic map scale.
 - (4) The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
 - (5) Certification of right, title, or interest in the property.
 - (6) A copy of the most recently recorded deed for the parcel and a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - (7) A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 - (8) A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
 - (9) The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.
 - (10) The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in

the direct watershed of a great pond, the application shall indicate which great pond.

- (11) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- (12) Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a critical natural area by the Comprehensive Plan or the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- (13) Contour lines at the interval specified by the Town Engineer showing elevations in relation to mean sea level.
- (14) The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- (15) The location, names, and present widths of existing streets and highways and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. In order to facilitate the addition of the subdivision into the municipal property records, this information shall also be submitted on a computer disc in a format compatible with the Assessor's records.
- (16) An indication of the type of sewage disposal to be used in the subdivision.
 - (a) When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sanford Sewerage District, stating that the District has the capacity to collect and treat the wastewater, shall be provided.
 - (b) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator, shall be provided. A test pit log and a map at the same scale as the subdivision plan showing the location of all test pits dug on the site shall be submitted.
- (17) An indication of the type of water supply system(s) to be used in the subdivision.
 - (a) When water is to be supplied by public water supply, a written statement from the Sanford Water District shall be submitted indicating that there is adequate supply and pressure for the subdivision and that the District approves the plans for extensions where necessary. Where the District's supply line is to be extended, a written statement from the Fire Chief

stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.

- (b) When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
 - (18) The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
 - (19) The location of any open space to be preserved and a description of proposed improvements and its management.
 - (20) All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained, shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Town Council is satisfied with the legal sufficiency of the written offer to convey title shall be included.
 - (21) The location and method of disposal for land clearing and construction debris.
- D. The Board may require additional information, including but not limited to the following, to be submitted where it finds it necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met:
- (1) A high-intensity soil survey by a certified soil scientist. Wetland areas shall be identified on the survey, regardless of size.
 - (2) A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology.
 - (a) The Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and:
 - [1] Any part of the subdivision is located over a mapped sand and gravel aquifer;
 - [2] The subdivision has an average density of more than one dwelling unit per 100,000 square feet; or
 - [3] In other cases where site considerations or development design indicates greater potential of adverse impacts on groundwater quality, such as extensive areas of shallow to bedrock soils, cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet, or the use of shared or common subsurface wastewater disposal systems.

- (b) The hydrogeologic assessment shall be conducted in accordance with the provisions of § 275-42A(1).
- (3) An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1997 Edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- (4) A traffic impact analysis. The Board may require an analysis for projects involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day based upon the ITE Trip Generation Manual. The traffic impact analysis shall be prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- (5) A stormwater management plan prepared by a registered professional engineer in accordance with "Stormwater Management for Maine: Best Management Practices," published by the Maine Department of Environmental Protection (1995).
- (6) An erosion and sedimentation control plan prepared in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991, and approved by the York County Soil and Water Conservation District.
- (7) A phosphorus control plan if the proposed subdivision is in the direct watershed of a great pond.
 - (a) For subdivisions that require a stormwater permit from the Maine Department of Environmental Protection (DEP) pursuant to 38 M.R.S.A. § 420-D, a copy of the DEP application with all supporting materials and the permit shall be submitted.
 - (b) For subdivisions that do not require a DEP stormwater permit and therefore qualify for the simplified review procedure as described in § 280-47A(2), the plan, if required, shall indicate the location and dimensions of vegetative buffer strips or other provisions to control phosphorous export.

§ 275-19. Final approval and filing.

- A. No plan shall be approved by the Board if the applicant(s) or any other entity in which the applicant(s) or the principals or shareholders of the applicant have a substantial interest is in violation of the provisions of a previously approved plan

within the municipality.

- B. Upon findings of fact and determination that all standards in 30-A M.R.S.A. § 4404 and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404 and the standards of these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Town Council covering future deed and title dedication and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Failure to initiate construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the five-year period. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE VI
Preliminary Plan for Major Subdivision

§ 275-20. Procedure.

- A. Within six months after the review of the site inventory and analysis by the Board, the applicant shall submit an application for approval of a preliminary plan. Applications shall be submitted to the Planning Department. Failure to submit an application within six months shall require resubmission of the inventory and analysis to the Board. The preliminary plan shall reflect the opportunities and constraints identified in the site inventory and analysis and address any issues identified by the Planning Board in the review of the site inventory and analysis.
- B. Upon receipt of an application, the Planning Department shall issue the applicant a dated receipt for the application.
- C. Within 10 days of the receipt of the preliminary plan application, the Planning Director shall determine whether the application is complete. If the application is complete, the Planning Director shall notify the applicant in writing of the determination. If the application is not complete, the Planning Director shall notify the applicant of the specific additional material needed to complete the application and that the application will not be considered by the Board until the additional information is provided.
- D. Once the Planning Director has determined that the application is complete, the Planning Director shall:
 - (1) Place the item on the agenda for the next regularly scheduled workshop meeting of the Planning Board for which the appropriate notification can be given.
 - (2) Distribute the application to the members of the Site Plan Review Committee for their review and comment.
 - (3) Notify, in writing, all owners of abutting property that an application for preliminary subdivision approval has been submitted, specifying the location of the proposed subdivision, including a general description of the project, and advising the abutters of the date, time, and location of the workshop and public hearing at which the application will be considered by the Board.
 - (4) Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. The applicant, or his/her duly authorized representative, shall attend the workshop and meetings of the Board to present the preliminary plan. Failure to attend the meeting to present the plan shall result in a delay of the Board's consideration of the plan until the next meeting which the applicant attends.
- F. Following review of the application at a workshop meeting, the Board shall hold a public hearing on the application at its next regular meeting. The Board shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times. The date of the first publication

shall be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant.

- G. Within 45 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- H. When granting approval of a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
 - (1) The specific changes which it will require in the final plan;
 - (2) The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - (3) The construction items for which cost estimates and performance guarantees will be required as a prerequisite to the approval of the final plan.
- I. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

§ 275-21. Submissions.

The preliminary plan application shall consist of the following items:

- A. A fully executed and signed copy of the application for preliminary major subdivision review (provided by the Town).
- B. A location map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - (1) Existing subdivisions in the proximity of the proposed subdivision.
 - (2) Locations and names of existing and proposed streets.
 - (3) Boundaries and designations of zoning districts.
 - (4) An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. The required application and development review fees.

- D. A complete list of abutters and the owners of any parcel abutting an abutter if it is located within 250 feet of the subject parcel, together with their mailing addresses.
- E. The preliminary subdivision plan and supporting documentation consisting of 15 copies of one or more maps or drawings drawn to a scale of not more than 50 feet to the inch and 15 copies of supporting documentation bound in a single report. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 100 feet to the inch provided that all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. In addition, one copy of the plan(s) reduced to a size of 11 by 17 inches shall be provided.
- F. The preliminary plan and supporting documentation shall include at least the following information. The Board may require additional information to be submitted where it finds necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met.
- (1) Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's map and lot numbers.
 - (2) The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan and adjoining property owners.
 - (3) The date the plan was prepared, North point, and graphic map scale.
 - (4) The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
 - (5) Verification of right, title or interest in the property.
 - (6) A copy of the most recently recorded deed for the parcel and a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - (7) A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 - (8) A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
 - (9) The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan.
 - (10) A medium-intensity soil survey.
 - (11) The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great

pond.

- (12) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- (13) Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- (14) Contour lines at the interval specified by the Town Engineer, showing elevations in relation to mean sea level.
- (15) The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- (16) The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- (17) The location and width of all proposed streets, including a typical cross section of the streets and sidewalks and a preliminary center-line profile.
- (18) The proposed lot lines with approximate dimensions and lot areas.
- (19) An indication of the type of sewage disposal to be used in the subdivision.
 - (a) When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sanford Sewerage District stating that the District has the capacity to collect and treat the wastewater shall be provided.
 - (b) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator or certified soil scientist, shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
- (20) An indication of the type of water supply system(s) to be used in the subdivision.
 - (a) When water is to be supplied by public water supply, a written statement from the Sanford Water District shall be submitted indicating that there is adequate supply and pressure for the subdivision and that the District approves the plans for extensions where necessary. Where the District's supply line is to be extended, a written statement from the Fire Chief stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.

- (b) When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
 - (21) Provisions for the collection and management of stormwater in the form of a preliminary drainage plan.
 - (22) The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
 - (23) The location of any open space to be preserved and a description of proposed ownership, improvement and management.
 - (24) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
 - (25) The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
- G. The Board may require additional information, including but not limited to the following, to be submitted where it finds it necessary in order to determine whether the preliminary plan is likely to result in a final plan that meets the criteria of 30-A M.R.S.A. § 4404:
- (1) A high-intensity soil survey by a certified soil scientist. Wetland areas shall be identified on the survey, regardless of size.
 - (2) A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology.
 - (a) The Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and:
 - [1] Any part of the subdivision is located over a mapped sand and gravel aquifer;
 - [2] The subdivision has an average density of more than one dwelling unit per 100,000 square feet; or
 - [3] In other cases where site considerations or development design indicates greater potential of adverse impacts on groundwater quality, such as extensive areas of shallow to bedrock soils, cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet, or the use of shared or common subsurface wastewater disposal systems.
 - (b) The hydrogeologic assessment shall be conducted in accordance with the provisions of § 275-42A(1).
 - (3) An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from

the Trip Generation Manual, 1997 Edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

- (4) A traffic impact analysis. The Board may require an analysis for projects involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day based upon the ITE Trip Generation Manual. The traffic impact analysis shall be prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- (5) If the proposed subdivision is in the direct watershed of a great pond and does not require a DEP stormwater permit and therefore qualifies for the simplified review procedure as described in § 275-47A(2), the plan, if required, shall indicate the location and dimensions of vegetative buffer strips or other provisions to control phosphorous export. The application shall include a long-term maintenance plan for all phosphorus control measures.

ARTICLE VII
Final Plan for Major Subdivision

§ 275-22. Procedure.

- A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan. Applications shall be submitted to the Planning Department. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board. If an applicant cannot submit the final plan within six months, the applicant may request an extension. Such a request for an extension to the filing deadline shall be submitted, in writing, to the Planning Director prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies and that municipal ordinances or regulations which may impact on the proposed development have not been amended.
- B. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
- (1) Maine Department of Environmental Protection, under the Site Location of Development Act¹
 - (2) Maine Department of Environmental Protection, under the Natural Resources Protection Act² or if a stormwater management permit or a wastewater discharge license is needed.
 - (3) Maine Department of Human Services, if the applicant proposes to provide a public or community water system.
 - (4) Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
 - (5) United States Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- C. Upon receipt of an application, the Planning Department shall issue the applicant a dated receipt for the application.
- D. Within 10 days of the receipt of the final plan application, the Planning Director shall determine whether the application is complete. If the application is complete, the Planning Director shall notify the applicant in writing of the determination. If the application is not complete, the Planning Director shall notify the applicant of the specific additional material needed to complete the application and that the application will not be considered by the Board until the additional information is provided.

1. Editor's Note: See 38 M.R.S.A. § 481 et seq.

2. Editor's Note: See 38 M.R.S.A. § 480-A et seq.

- E. Once the Planning Director has determined that the application is complete, the Planning Director shall:
- (1) Place the item on the agenda for the next regularly scheduled workshop meeting of the Planning Board for which the appropriate notification can be given.
 - (2) Distribute the application to the members of the Site Plan Review Committee for their review and comment.
 - (3) Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision, including a general description of the project, and advising the abutters of the date, time, and location of the workshop and public hearing at which the application will be considered by the Board.
 - (4) Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- F. The applicant, or his/her duly authorized representative, shall attend the workshop and meetings of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's consideration of the plan until the next meeting which the applicant attends.
- G. At the workshop meeting, the Board shall determine whether to hold a public hearing on the final plan application.
- H. If the Board decides to hold a public hearing, it shall hold the hearing within 30 days, notify the applicant, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times. The date of the first publication shall be at least seven days before the hearing.
- I. Within 45 days from the public hearing or within 60 days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions relative to the criteria for approval contained in 30-A M.R.S.A. § 4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, it shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

§ 275-23. Submissions.

- A. The final plan application shall consist of the following items:
- (1) A fully executed and signed copy of the application for final major subdivision review (provided by the Town).
 - (2) The required application and development review fees.

- (3) A performance guarantee in accordance with the provisions of Article XII assuring the construction of all street, utilities, and other improvements proposed as part of the final subdivision plan.
 - (4) The final subdivision plan and supporting documentation consisting of 15 copies of one or more maps or drawings drawn to a scale of not more than 50 feet to the inch and 15 copies of supporting documentation bound in a single report. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 100 feet to the inch provided that all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the plan(s) reduced to a size of 11 by 17 inches shall be provided.
- B. Prior to the meeting at which action on the plan is anticipated to be taken, the applicant shall submit two reproducible, stable-based transparencies of the subdivision plan, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan.
- C. The final subdivision plan and supporting documentation shall include at least the following information:
- (1) Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's map and lot numbers.
 - (2) The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan.
 - (3) The date the plan was prepared, North point, and graphic map scale.
 - (4) The location of any zoning boundaries affecting the subdivision.
 - (5) If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 - (6) The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
 - (7) The boundaries of any flood hazard areas and the one-hundred-year flood elevation as depicted on the municipality's Flood Insurance Rate Map shall be delineated on the plan.
 - (8) An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewerage system, a written statement from the Sanford Sewerage District shall be submitted indicating that the District has reviewed and approved the sewerage design.
 - (9) An indication of the type of water supply system(s) to be used in the

subdivision. When water is to be supplied by the Sanford Water District, a written statement from the District shall be submitted indicating that the District has reviewed and approved the water system design together with a written statement from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.

- (10) The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- (11) The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor. The original reproducible plan shall be embossed and printed with the seal of the registered land surveyor and be signed by that individual.
- (12) All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Town Council is satisfied with the legal sufficiency of the written offer to convey title shall be included.
- (13) Street plans meeting the requirements of § 275-51C.
- (14) A stormwater management plan prepared by a registered professional engineer in accordance with "Stormwater Management for Maine: Best Management Practices," published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the stormwater management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- (15) An erosion and sedimentation control plan prepared in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- (16) The width and location of any streets or public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

- (17) If any portion of the proposed subdivision is in the direct watershed of a great pond and the subdivision requires a stormwater permit from the Maine Department of Environmental Protection, a copy of the DEP application with all supporting materials and the permit shall be provided.
- (18) A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots and evidence that the applicant has financial commitments or resources to cover these costs.
- (19) The location and method of disposal for land clearing and construction debris.

§ 275-24. Final approval and filing.

- A. No plan shall be approved by the Board if the applicant(s) or any other entity in which the applicant(s) or the principals or shareholders of the applicant have a substantial interest is in violation of the provisions of a previously approved plan within the municipality.
- B. Upon findings of fact and determination that all standards in 30-A M.R.S.A. § 4404 and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404 and the standards of these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Town Council covering future deed and title dedication and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phased development plan, failure to initiate construction of

the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the five-year period. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE VIII
Revisions to Approved Plans

§ 275-25. Procedure.

An application for a revision to a previously approved plan shall be submitted to the Planning Director. The Planning Director shall review the application and determine the procedure to be used in revising the plan. Minor changes that do not alter lot lines or the essential nature of the proposal or affect the approval criteria may be approved by the Planning Director by written endorsement of the changes on the approved plan. If the revision requires the approval of the Planning Board, the Planning Director shall place the application on the agenda of the Board in accordance with the procedures of Articles V, VI and VII as appropriate. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed. If the application involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed.

§ 275-26. Submissions.

The applicant shall submit a copy of the approved plan as well as 15 copies of the proposed revisions. The application shall also include the appropriate supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

§ 275-27. Scope of review.

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

ARTICLE IX
Inspections and Enforcement

§ 275-28. Inspection of required improvements.

- A. Prior to the recording of the approved plan in the York County Registry of Deeds and at least five days prior to commencing construction of required improvements, the subdivider or builder shall:
- (1) Notify the Director of Public Works in writing of the time when (s)he proposes to commence construction of such improvements, so that the Director can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
 - (2) Deposit with the Town an inspection fee in the amount of: 5% of the estimated costs of the required improvements, or the estimated cost of inspection by the Town Engineer, or the estimated cost of inspection by an engineer hired by the Director of Public Works. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate.
- B. The Town Engineer or other engineer hired by the Director of Public Works shall inspect any road construction and other improvements at appropriate points in the construction.
- (1) At a minimum, an inspection shall be conducted at the following times:
 - (a) Upon completion of the clearing and grubbing.
 - (b) Upon completion of the excavation of the roadway.
 - (c) During the installation of drainage improvements and structures.
 - (d) Upon installation of the road subbase.
 - (e) Prior to the installation of any paving or other improvements.
 - (f) During the paving of the road.
 - (g) Upon the completion of the improvements.
 - (h) Following loaming and seeding and cleanup.
 - (i) Upon receipt of a written request for the acceptance of the road as a public street by the Town.
 - (2) If the road or other improvements are constructed in phases, each phase shall be inspected separately.
- C. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by the inspecting engineer. By October 1 of each year during which construction was done on the site, the engineer shall submit

a report to the Director of Public Works and Planning Director based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

- D. If the inspecting engineer 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 subdivider, the inspecting engineer shall so report in writing to the Director of Public Works, Planning Director, Planning Board, and the subdivider and builder. The Director of Public Works shall take any steps necessary to assure compliance with the approved plans.
- E. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting engineer is authorized to approve minor modifications due to unforeseen circumstances, such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting engineer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Director. Revised plans shall be filed with the Planning Department and endorsed by the Planning Director. For major modifications, the subdivider shall obtain permission from the Board to modify the plans in accordance with Article VIII. Major modifications include, but are not limited to, changes such as the relocation of rights-of-way, revisions to property boundaries, or changes of grade by more than 1%.
- F. Prior to the sale of any lot, the subdivider shall provide the Planning Director with a letter from a registered land surveyor stating that all monumentation shown on the plan has been installed.
- G. Upon completion of street construction and prior to a vote by the Town Council to accept a street, a written certification signed by the inspecting engineer shall be submitted to the Town Council certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. 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. The subdivider shall submit record drawings to the Planning Director and the Public Works Department prior to the Town acceptance of any street.
- H. The subdivider shall be required to maintain all improvements, provide for snow removal on streets and sidewalks, and pay for any streetlighting until acceptance of the improvements by the municipality or control is placed with a lot owners' association. The subdivider shall file a performance guarantee with the Director of Public Works upon completion of the public improvements in an amount and form acceptable to the Town Council assuring that this obligation shall be met. The performance guarantee shall remain in force as long as the subdivider retains this maintenance responsibility.

§ 275-29. Violations and penalties.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been

approved by the Planning Board in accordance with these regulations.

- B. A person shall not convey or offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. 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.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which requires a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A M.R.S.A. § 4452 and as otherwise provided by law.

