



City of Caribou, Maine

AGENDA Caribou Planning Board Regular Meeting Thursday July 10, 2025, at 6:00 p.m.

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

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, July 10, 2025, will be read during the meeting. Send comments to City Manager Penny Thompson at pthompson@cariboumaine.org.

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|-------|--|---------------------|
| I. | Call Meeting to Order, Determine Quorum, disclosure of conflicts of interest | |
| II. | Acceptance of Minutes | <u>Pages</u> |
| | a. May 8, 2025, Regular Meeting minutes | 02-04 |
| III. | Public Hearings & Possible Action – none this meeting | |
| IV. | Unfinished Business | |
| | a. Comprehensive Plan update | |
| | b. Cannabis Ordinance Review | 05-37 |
| V. | New Business | |
| VI. | City Council Liaison Report | |
| VII. | Staff Report | |
| VIII. | Adjournment | |



City of Caribou, Maine

Meeting Minutes For:

Caribou Planning Board

Regular Meeting

Thursday May 8, 2025, at 6:00 p.m.

Municipal Building

25 High Street

Caribou, ME 04736

Telephone (207) 493-3324

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www.cariboumaine.org

Caribou Planning Board item #1: Call meeting to order, Determine Quorum, Disclosure of conflicts on interest-

The Caribou Planning Board held a regular meeting on Thursday May 8, 2025 the meeting was called to order at 6:07 pm by Chair Amanda Jandreau. The board went through the roll call and confirmed that 4 members were present, they are Amanda Jandreau Chair, Frank McElwain Vice-Chair, Steven Wentworth and Eric Hitchcock. Dave Corriveau joined the meeting at 6:11pm, bringing the number of members to 5 presents. Others who joined the meeting are Dan Bagley, Councill Liaison, Staff: Jim Gardiner, Karen Gorman, Penny Thompson, Gary Marquis, Shane McDougall and Via Zoom Ellen Angel and Shelly Lizotte. There was no disclosure of conflicts on interest at this time.

Caribou Planning Board Item #2: Acceptance of Minutes

The First motion of accepting of minutes was by Frank McElwain and second by Eric Hitchcock to accept all minute's form February 27, 2025, March 13, 2025 and April 10, 2025. The vote of accepting minutes was unanimous.

Caribou Planning Board Item # 3: Public hearings & possible Action

The public hearings opened at 6:08pm for Nuisance ordinance and Anti-Blight Ordinance. There was no public comment, the motion to close by Steve Wentworth and seconded by Frank McElwain to close public hearings at 6:09pm. The Vote was unanimous.

Caribou Planning Board item # 4: Unfinished Business

- a. Comprehensive Plan: Karen Gorman spoke about growth areas, she suggested making sure TIF districts are on future zoning maps. Amanda Jandreau had mixed use on South main to PI Line, High St and Herschel St. Steve Wentworth mentioned to incorporate MHP at mad stream, Noyes Road along the river.

Caribou Planning Board item # 5: New Business

- a. Caribou mill Pond- Speaker Shane McDougall PE from Aviest Engineering provides a four-page narrative on the project. This project started in 2019 when the dam was breached due to the excessive amount of snowmelt runoff that year. The original scope of the project was to rebuild the dam, but after speaking with Maine IF&W they advised that they need to add a new fishway to the scope of the project. This would increase the

project budget, this started the search for additional funding. In May of 2024 the city of Caribou was awarded \$4.5 Million in Congressionally Delegated spending funds for this project. Shane explained that there are three components to the project, which are Dredge Pond, restore Dam and Incorporate fishway. This led to the discussion of NEPA review of the permits required, alongside confirming that Shoreland Zoning permits are required. After Shane went over his presentation he opened the floor for questions. Dave Corriveau asked, "What is the depth that will be dredged?" Shane responded that "it would be 3-4 feet, 2 feet and the dam would add 1-2 feet." Gary Marquis added that we will "need to be mindful of owners up stream". The next question was asked by Frank McElwain "what would be used for the dam?" Shane explained that they will be using "sheet Pile". Shane spoke about the roles of various sub-contractors that are hopefully to be under contract in May, and the final design should be August. At this time, we are unsure when it will go out to bid.

Dave Corriveau asked, "Would dredging be possible in winter?" Shane McDougall answered that the "Dept would probably look favorable and that it will need to go out on the maps". Shane will be presenting this project next to the city council. Gary Marquis spoke about recreational uses post construction. This led to a discussion regarding Las Vegas Bellagio, they are removing their fountain, would they consider donating the fountain to the city? Dave Corriveau has been tasked with getting contact information and Dan Bagley Council liaison will reach out once we acquire the contact information.

- b. Police Station: Shelly Lizotte Led a discussion of the Plan provided to the planning board Via Zoom. She advised that a road opening permit will need to be issued, and a DEP permit may be needed. No SOLA on site as there Is not creating enough impervious surface to trigger, might need a PBR.

Ellen Angel is coming for the pre-bid meeting on 5/21/2025 which will bring full sets to the meeting. All bids are due on 6/12/2025. Chair Amanda Jandreau mentioned that Civil, structure and elevations will be on first page and have block of public hearing on 6/12/2025 for final plans.

Amanda Jandreau, chair, had questions for Artifex on "Why is there no access from Ft. St?" "Elevations from all sides?" "Also, when have master plan, what permits would be required?" Eric Hitchcock mentioned that from the drainage there could be contaminated soil. Amanda Jandreau mentioned using footcandles for lighting, Eric Hitchcock stated that it would be ADA compliance with basement space/uses. Amanda Jandreau mentioned state plumbing inspector is a requirement for radon Mitigation.

Dan Bagley voiced concern about alternate egress for emergency vehicles. Amanda Jandreau responded that a steep elevation but doable, just takes money. Get CUD to bring a culvert, not insurmountable. Eric Hitchcock mentioned that there was always a driveway off fort St. Steve Wentworth asked, "would it be any steeper than it is now from current PD to main st?"

Motion by Steve Wentworth to approve the concept plan and sent to public hearing on 6/12/2025, motion was second by Frank McElwain, this section is closed due to unanimous vote.

Caribou Planning Board #6: Council Liaison Report

Dan Bagley Council Liaison thanked the planning board and staff for all the work on comp plan, and that it's exciting about it being a living document and not just sitting on a shelf.

Dan Bagley Council Liaison provided a recap of the city council meeting and cannabis issues with is ongoing with research. A comment by Dave Corriveau not to revise the ordinance due to opening the city to more uses. Amanda Jandreau responded that no changes should be made without public comment/public hearing. Jim Gardner spoke about the ordinance in Easton

Caribou Planning Board #7 Staff Report

Penny Thompson gave the staff report on grants and permits. Jim Gardner gave an update on the CDs for the Fire Department. After the update Jim Gardner also discussed fiscal capacity and capital plans from the comprehensive plan. Dan Bagley Council Larison said: "we need to work on our capital investments strategy so it can be improved because it is not presented as a recapitalization plan. The other strategy is to borrow money for capital improvement". Dan Bagley Council Larison said that he would like to see plans for the Industrial Park infrastructure and Airport investments.

Caribou Planning Board item # 8 Adjournment

Motion to adjourn the meeting by Eric Hitchcock, seconded by Dave Corriveau. The vote was unanimous. The meeting was adjourned at 8:10pm

Cannabis Materials July 10, 2025

Ordinance Introduced June 16, 2025	06-09
Letter from Attorney Rick Solman	10-15
Freeport ordinance (referenced in Rick Solman letter)	16-28
Madison ordinance (referenced in Rick Solman letter)	29-37

The Planning Board was previously given the state statute on medical cannabis.

City of Caribou, Maine – Medical Cannabis Dispensary Ordinance

This section repeals Section 39 in its entirety.

Dispensary- includes for profit and non-profit

Section 1: Purpose

This ordinance establishes clear guidelines for the continued operation of two medical cannabis dispensaries in the City of Caribou in accordance with the Maine Medical Use of Cannabis Act at Title 22, Chapter 558-C. The ordinance further serves to clarify that Caribou has not opted-in for any license category authorized under Title 28-B, Maine’s Cannabis Legalization Act, also known as “adult use” or “recreational” cannabis, and thus these businesses are not authorized to operate in Caribou. Furthermore, The City of Caribou has not opted in Caregiver retail stores as defined in Title 22, ch558-C, section 2421-A (12)

Section 1. Purpose. The purpose of this Ordinance is to provide for and regulate the issuance of local licenses for a Registered Dispensary.

Section 2. Authority. This Ordinance is adopted pursuant to the authority granted by the Maine Medical Use of Cannabis Act, 22 MRS § 2429-D.

Section 3. Registered Dispensary. A Registered Dispensary as defined in 22 MRS § 2421-A (41) may operate in the City of Caribou subject to the requirements and restrictions of this Ordinance.

Definition

Registered Dispensary: “Registered Dispensary” (Title 22, Ch. 558-C Section 2421-A 41) An entity registered in accordance with this chapter that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis paraphernalia, cannabis plants, harvested cannabis, related supplies or educational materials to qualifying patients and the caregivers of those patients.

Medical use: "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of cannabis or cannabis paraphernalia relating to the administration of cannabis 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.

Registrant Dispensary: "Registered dispensary" means an entity registered in accordance with this chapter that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis paraphernalia, cannabis plants, harvested cannabis, related supplies or educational materials to qualifying patients and the caregivers of those patients.

Section 2: Authorized Medical Cannabis Dispensaries

1. Permitted Dispensaries

Only two medical cannabis dispensaries are authorized to operate in Caribou.

2. Limit on Number

- The city caps the number of medical cannabis dispensary licenses at two (2). The city elects to offer priority in licensing to the two existing authorized medical cannabis operations. No additional medical cannabis dispensaries will be authorized in the City of Caribou.
- Authorization Transferrable: Should one or both of the approved medical cannabis dispensaries seek to change ownership, they must:
 - Notify the City Code Enforcement Office.
 - Update all contact information on file with Caribou as to the ownership of the business.
 - Provide proof of approval of the ownership change from the Office of Cannabis Policy.
 - Be subjected to inspections by the City Code Enforcement Office, Fire Department, and any other designated municipal authority.
- If either or both of the approved dispensary locations cease operations for a period of 12 months, for any reason, the city will revoke the authorization issued to the dispensary and the dispensary will no longer be able to operate.

3. Location Restrictions

- These two existing dispensaries shall continue to operate at their current locations.
- Zoning – Licensed dispensaries are allowed only in the R-3 zone at the two existing authorized locations.

4. Authorized Activities

Each authorized dispensary may engage in the full scope of activities permitted under the Maine Medical Use of Cannabis Act, including:

- Cultivation of medical cannabis
- Manufacturing and production of cannabis products
- Sales to qualified patients and caregivers
- Transportation and delivery to qualified patients as permitted by state law

Section 3: Prohibition on Adult Use (Recreational) Cannabis in license categories authorized by the Cannabis Legalization Act, Title 28-B:

1. No Adult Use Cannabis Operations Permitted

No business or individual shall operate or seek to establish a facility for the cultivation, manufacture, testing, distribution, sale, or delivery of adult use (recreational) cannabis within the City of Caribou.

2. Clarification of Scope

This prohibition applies to all adult use operations regulated under 28-B M.R.S. and any related rules and guidance from the Office of Cannabis Policy.

Section 4: Inspections and Compliance

1. Local Inspections

All dispensaries must remain in compliance with applicable building, safety, fire, and health codes and shall be subject to inspection by:

- o City Code Enforcement Officer
- o Fire Department
- o Any other designated municipal authority

2. State Compliance

All dispensaries must comply with the Maine Medical Use of Cannabis Program regulations and remain in good standing with the Maine Office of Cannabis Policy and, upon request, will provide Caribou Code Enforcement with proof of state compliance in the form of an active license, and/or OCP inspection reports confirming compliance with state law and regulations

Section 5: Enforcement

Any violation of this ordinance may result in enforcement actions, including fines, suspension of local authorization, or termination of local operations, in accordance with applicable municipal procedures.

Section 6: Effective Date

This ordinance shall take effect immediately

Section 7: Fees

7.1 Annual Licensing Fee Each authorized medical cannabis dispensary operating in the City of Caribou shall pay an annual local licensing fee of **\$1,000.00**. This fee shall be submitted to the City Clerk and is due on or before January 31 of each calendar year. The purpose of this fee is to help offset administrative and regulatory costs incurred by the municipality in overseeing compliance and permitting of dispensary operations.

- **7.2 Inspection and Permit Fees** In addition to the annual licensing fee, dispensaries shall be subject to the following fees:
- A fee of **\$500.00** for each initial or renewal site inspection conducted by the municipality.
- A fee of **\$250.00** for any additional compliance inspections that are required outside the normal annual review cycle.

7.3 Application Fee Any proposed change to a dispensary's operations, including but not limited to structural expansion, site plan modification, or change of ownership, shall require submission of a new application and payment of a **\$1,000.00** non-refundable application fee to cover municipal review and administrative costs.

Section 8. Penalty Any person violating the provisions of this ordinance may be liable for the penalties set forth below:

- Violation of these codes could range from \$100 to \$2,500 per day, for first time violation with higher penalty subsequent valuations. Fines will be assessed daily until the violation has been resolved to the satisfaction of the code informant. Any violations not corrected within 15 days will be subject to a daily higher fine and a potential posting against occupancy.
- Upon notices of a license receiving a fourth notice of violation within a license's year. The licenses will be referred to the City Council for a hearing on a possible license revocation.

RICHARD D. SOLMAN
SCOTT G. HUNTER

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July 2, 2025

City of Caribou
25 High Street
Caribou, ME 04736

Attn: Penny Thompson -City Manager

Dear City Manager Thompson:

Pursuant to the request of the City Council, I have reviewed the Medical Cannabis Dispensary Ordinance which was introduced by the Council at the June 16, 2025 City Council Meeting. For the reasons specified herein, it is my recommendation that the draft ordinance be modified.

Cannabis Law Overview

The State of Maine has legalized cannabis for medicinal purposes and for general adult use. The Maine Medical Use of Cannabis of Cannabis Act, 22 MRS §2421, et seq. authorizes the use of cannabis for medical purposes. The Cannabis Legalization Act, 28-B MRS §101 governs adult or recreational use of cannabis and related establishments. The State of Maine has adopted regulations for licensure and operations for both categories of cannabis establishments.

Under Maine law, municipalities may not prohibit or limit the number of registered caregivers operating in the municipality, but are allowed under Home Rule to impose regulations upon registered caregivers, caregiver retail stores, registered dispensaries, cannabis testing facilities and manufacturing facilities and all adult use facilities.

With respect to the medical use of cannabis, caregiver retail stores, registered dispensaries or cannabis testing facilities and manufacturing facilities are *not* allowed in a municipality, unless and until the municipality has specifically adopted an ordinance to allow or 'opt-in' to such uses. A municipality must also opt-in to adult use facilities.

The original medical use legislation enacted by the Maine Legislature restricted registered dispensaries to organizations that operated as a non-profit. City of Caribou subsequently voted to authorize registered non-profit dispensaries and registered cultivation facilities. See Chapter 13- Zoning, Section 13-700(39) of the Land Use Ordinances of Caribou and Chapter 7, Licenses and Permits, Article XI and Chapter 13 - Zoning, Land Use Table.

There is one registered non-profit dispensary licensed and operating in Caribou - Safe Alternatives.

Maine law no longer limits registered dispensaries to non-profit organizations. The Council has taken steps to update the Caribou Code to conform with current Maine law with respect to registered dispensaries.

On June 16th, the Council introduced a new proposed ordinance titled “City of Caribou, Maine -Medical Cannabis Dispensary Ordinance”. This ordinance repeals and replaces Section 13-700(39) in its entirety.

Procedure for Adoption of Ordinances

Sec.2.12(c) of the Caribou Code sets forth the procedure for the adoption of municipal ordinances. The relevant text is as follows:

(c) *Procedure.* An ordinance may be introduced by any member at any regular or special meeting of the Council provided it is in writing in the form required for final adoption and contains only one subject which is clearly expressed in its title...

Amendments to the Land Use Ordinances of the City of Caribou

Sec.13-100(7) of the Land Use Ordinances of the City of Caribou specifies the procedure for amendments to the Land Use Ordinances. The relevant text is as follows:

“7. Amendments

A. Initiation. An amendment to these Ordinances may be initiated by the Planning Board, by majority vote of the Board; *City Council through a request to the Planning Board*; or an individual, through a request to the Planning Board.

B. Procedure. Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested...

C. Process for Adoption of Amendments

1. Within thirty (30) days of receiving an amendment request, the Planning Board shall hold at least one public hearing on the proposed amendment...
2. After receiving public comment, the Board shall, within 60 days make a written recommendation regarding passage of the amendment to the City Council...
3. The City Council shall hold a public meeting on the proposed amendment and may conduct a public hearing if desired
4. An amendment must be adopted by the Council by ordinance and shall be effective upon posting of the ordinance in three public places....”

Reading the two sections together, it is my opinion that proposed ordinance introduced by the Council must be directed to the Planning Board in accordance with Sec.13-100(7) before proceeding further. Once the Planning Board has completed its work and made its recommendation back to the Council, the Council must hold a public meeting with an optional public hearing. Any proposed amendment must be adopted by the Council by ordinance.

Title 30-A MRS §4352(9) specifies public notice of amendment to a zoning ordinance including posting in the municipal office and publication for 2 weeks in a newspaper of general circulation.

Proposed Ordinance -Content

1. Definitions- The draft ordinance adopts the definitions of “Registered Dispensary” and “Medical Use” set forth in Title 22. It also includes a unique definition -“Cannabis Medical Use Dispensary”. There is also reference to a “medical cannabis dispensary” in Section 2 which is not defined in either the ordinance or Maine law.

A ‘Cannabis Medical Use Dispensary’ is not a defined term under Title 22 and creates a type of hybrid facility unique to the Caribou Code. The purpose of authorizing this type of unique facility is not clear.

Caution is advised with respect to non-standard definitions. Whenever possible, I recommend that definitions refer to Maine cannabis statutes. Referring to Maine law will automatically incorporate any future legislative changes into the Caribou Code. Note: it is illegal for a collective to be a dispensary.

2. *Section 2 Authorized Medical Cannabis Dispensaries.*

- a. Subsection 1 states that only two ‘medical cannabis dispensaries’ are authorized to operate in Caribou: Safe Alternatives and Richardson’s Remedies. Richardson’s Remedies is a registered caregiver. Safe Alternatives is a licensed non-profit dispensary.

The current language is problematic. While it is permissible and advisable to limit the number of registered dispensaries in the City, the ordinance authorizes two specific named businesses to operate a ‘Cannabis Medical Use Dispensary’ without requiring an application or issuance of a municipal or state license. If a new ordinance is passed, both facilities should be required to apply for and obtain municipal and state licenses as needed. See my note on priority ahead.

- b. It is permissible to determine the appropriate zone or zones for the establishment of registered dispensaries or any other cannabis operation within the City. Allowing a permitted use at only two specific locations is ‘spot zoning’ and is not legal.
- c. Priority/Preferences. Safe Alternatives is a lawfully existing non-profit dispensary already operating in Caribou. Since the Safe Alternatives operation is grandfathered, the ordinance could give priority to existing dispensaries over other applicants. If Safe Alternative converts to a for-profit entity, the ownership structure should be reviewed to verify continuity before a new license is issued.

Richardson Remedies is one of several caregivers located in Caribou. The City ordinance could also give priority to Registered Caregivers currently operating in Caribou, but the process for awarding the remaining permit should be fair to all Registered Caregivers operating in the City. Giving preference to one registered caregiver over another is discriminatory and subject to legal challenge.

The method by which future licenses are awarded should be neutral and fair to all potential applicants. Selection based on a first come-first serve basis or lottery would be appropriate.

It is recommended that public notice be provided specifying a period during which the initial applications for registered dispensaries are accepted.

- d. Zone R-3. Allowing registered dispensaries only in R-3 creates an issue as Safe Alternatives is in the RC-2 zone. This makes Safe Alternatives a non-conforming use. It is recommended that the ordinance specify that Safe Alternatives registered dispensary is grandfathered notwithstanding that would not be allowed in the RC-2 zone under the new ordinance.
- e. The security regulations in the present Section 39 have been deleted in the proposed ordinance. Proper security is required under Title 22. Appropriate security and distancing should be part of the ordinance.
- f. Corrections. A few minor corrections should be made such as replacing “city” for “town” and “this chapter” which should refer to Title 22.
- g. Transferability of Licenses. The process for approval of license transfers should be better detailed.
- h. Location Restrictions. See my comment above regarding spot zoning. Allowing registered dispensaries to operate in an R-3 zone should be carefully considered after public input. Some restrictions are specified in Maine law. For example, Maine law does not allow a registered dispensary within 500 feet of a school.
- e. Authorized Activities. If the City allows ‘registered dispensaries’, the scope of activities which are allowed are specified in the statute. It is not necessary to enumerate them. See Title 22 MRS §2428.
- f. The ordinance does not deal with the Caribou Land Use Table, the licensing language set forth in Chapter 7- Licenses & Permits (Article XI) or the definitions set forth in the Land Use Ordinances. All applicable provisions in the Caribou Code should be consistent.
- g. The effect of the proposed ordinance would be to eliminate ‘registered cultivation facilities’ in Caribou. I do not know if any such operations are located in Caribou.
- h. If it is the intent of the Council to opt in to ‘caregiver retail stores’, such intent should be clearly stated in the ordinance. [Note: Caregivers are only allowed to operate one retail store. Even if Caribou opts-in to caregiver retail, Richardson’s Remedies would not be allowed to operate a caregiver retail store in Caribou as the company operates a caregiver retail store in Presque Isle .]

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Conclusion

Based on the foregoing, I do not recommend passage of the proposed ordinance in its current form. Additional work is needed by the Planning Board and Council in regard to this matter to ensure that the end result is properly integrated with the Caribou Code, the Comprehensive Plan, applicable Maine law and is fair to all. A good place to start is a cannabis ordinances adopted by other Maine municipalities. See ordinances passed by the Town of Freeport and Town of Madison which are attached.

Sincerely,


RICHARD D. SOLMAN

RDS/lmb

Enclosures

Chapter 66
Town of Freeport
Cannabis Establishment Licensing Ordinance

§1. Title.

This ordinance shall be known and cited as the “Town of Freeport Cannabis Establishment Licensing Ordinance” and will be referred to hereinafter as "this Ordinance." This Ordinance provides for licensing and regulation of Cannabis Establishments, and, together with the Town of Freeport Zoning Ordinance, prescribes definitions and standards for the operation of Cannabis Establishments.

§2. Authority.

This Ordinance is enacted pursuant to authority granted by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S Chapter 1 and the Maine Medical Use of Marijuana Act, 22 M.R.S. Chapter 558-C, as may be amended; 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.

§3. Purpose.

It is the purpose of this Ordinance, in conjunction with certain sections of the Freeport Zoning Ordinance, to provide for and regulate the issuance of local licenses for Cannabis Establishments as defined in this Ordinance and to require their renewal annually in order to promote the health, safety, and general welfare of the residents of Freeport and to regulate the location, density and type of land use activity involving Cannabis, all in accordance with the Marijuana Legalization Act and the Maine Medical Use of Marijuana Act, as may be amended.

§4. Conflict with other ordinances; Severability.

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 control.

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid 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 thereof.

§5. Effective Date.

The effective date of this Ordinance, and any amendments to this Ordinance, shall be their date of adoption by the Town Council.

§6. Definitions.

As used in this Ordinance, unless the context otherwise indicates, the following terms are defined below, and unless the context otherwise indicates, shall be construed in a manner that is consistent with the corresponding definitions in the State of Maine Medical Use of Cannabis Program Rule, 18-691 C.M.R. Chapter 2 and in the State of Maine Adult Use Cannabis Program Rule, 18-691 C.M.R. Chapter 1, provided that the term “Marijuana” as used in this Ordinance shall have the same meaning as “Cannabis” as used in the Adult Use Program Rule:

Adult Use Cannabis Cultivation Facility: A “cultivation facility” as that term is defined in 28-B M.R.S. § 102(13).

Adult Use Cannabis Retail Store: A “marijuana store” as that term is defined in 28-B M.R.S. § 102(34).

Adult Use Cannabis Testing Facility: A “testing facility” as that term is defined in 28-B M.R.S. § 102(54).

Cannabis: “Marijuana” as that term is defined in 28-B M.R.S. § 102 (27), as may be amended.

Cannabis Cultivation Facility: An Adult Use Cannabis Cultivation Facility or a Medical Cannabis Cultivation Facility.

Cannabis Establishment: A Cannabis Cultivation Facility or a Cannabis Manufacturing and Processing Facility. Unless a general definition (including, but not limited to, agriculture, manufacturing/processing, retail trade, business and professional offices, home occupation, or accessory use) expressly includes a Cannabis Establishment, the general definition does not include a Cannabis Establishment. A Cannabis Establishment does not include an Adult Use Cannabis Retail Store, a Medical Cannabis Caregiver Retail Store, a Medical Cannabis Dispensary Retail Store, an Adult Use Cannabis Testing Facility or Medical Cannabis Testing Facility, which are not permitted in the Town of Freeport.

Cannabis Extraction: The process of extracting cannabis concentrate from cannabis using water, lipids, gases, solvents or other chemicals or chemical processes, as defined in 28-B M.R.S. §101(30), as may be amended. Cannabis Extraction does not include extraction processes that use inherently hazardous substances.

Cannabis Home Cultivation: The cultivation of (i) cannabis for personal adult use by persons twenty-one (21) years of age or older in accordance with the provisions of 28-B M.R.S. § 1502; or (ii) medical cannabis by an Exempt Caregiver or a Qualifying Patient.

Cannabis Manufacturing: The production, blending, infusing, compounding or other preparation of cannabis concentrate and cannabis products, including, but not limited to, Cannabis Extraction or preparation by means of chemical synthesis.

Cannabis Manufacturing and Processing Facility: A “products manufacturing facility” as that term is defined in 28-B M.R.S. § 102(43) as amended, or a “manufacturing facility” as that term is defined in 22 M.R.S. § 2422(4-R) as amended.

Exempt Caregiver: A natural person who cultivates cannabis for no more than two (2) family members or members of the caregiver's household, is exempt from registration by the State pursuant to 22 M.R.S. § 2423-A(3)(C-1) and may not possess more than eight (8) pounds of cannabis.

Inherently Hazardous Substances: Means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than thirty-eight (38) degrees Celsius or one hundred (100) degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. Inherently Hazardous Substance does not include any form of alcohol or ethanol.

Licensee: A person or entity licensed to operate a Cannabis Establishment pursuant to this Ordinance.

Marijuana: See Cannabis.

Medical Cannabis Cultivation Area: A “cultivation area” as that term is defined in 22 M.R.S. § 2422(3).

Medical Cannabis Cultivation Facility: An indoor Medical Cannabis Cultivation Area located anywhere other than a Medical Cannabis Registered Caregiver’s residential dwelling or accessory structure. This includes Medical Cannabis Dispensary Cultivation Facilities.

Medical Cannabis Dispensary Cultivation Facility: A Medical Cannabis Cultivation Facility, operated by an entity that has registered as a Medical Cannabis Registered Dispensary under 22 M.R.S. § 2425-A, which conducts no point-of-sale transactions or transfers of cannabis plants or harvested cannabis on site to qualifying patients or caregivers.

Medical Cannabis Caregiver Retail Store: A “caregiver retail store” as that term is defined in 22 M.R.S. § 2422(1-F) as may be amended.

Medical Cannabis Dispensary Retail Store: A Medical Cannabis Registered Dispensary which includes as part of its on site operations a retail space for the conduct of sales or transfers of cannabis plants or harvested cannabis to qualifying patients or caregivers. Medical Cannabis Dispensary Retail Stores are prohibited.

Medical Cannabis Registered Dispensary: A “Registered dispensary or dispensary” as that term is defined in 22 M.R.S. § 2422(6).

Medical Cannabis Registered Caregiver: A “caregiver” as that term is defined in 22 M.R.S. § 2422(8-A), as may be amended, who is registered by the State pursuant to 22 M.R.S. § 2425-A.

Medical Cannabis Small-Scale Caregiver Operation: A commercial or noncommercial use by a Medical Cannabis Registered Caregiver who sells or dispenses cannabis solely out of the Caregiver’s residential dwelling or accessory structure; does not process or manufacture cannabis using chemicals or solvents; and cultivates no more than thirty (30) mature cannabis plants. Medical Cannabis Small-Scale Caregiver Operation is considered a home occupation and is subject to the performance standards of Section 503 of the Freeport Zoning Ordinance.

Medical Cannabis Testing Facility: A “marijuana testing facility” as that term is defined in 22 M.R.S. § 2422(5-C) as may be amended.

Qualifying Patient: A “qualifying patient” as that term is defined in 22 M.R.S. § 2422(9) as may be amended.

§7. Establishments allowed; licenses required; license exemptions.

Pursuant to 28-B M.R.S. Chapter 1 or 22 M.R.S. Chapter 558-C, the operation of Cannabis Establishments is allowed, subject to the requirements of this Ordinance, the Town of Freeport Zoning Ordinance, and other applicable state and local laws and regulations.

No person shall operate a Cannabis Establishment, nor shall any property owner permit the use of their premises to be operated as a Cannabis Establishment, without a valid license issued by the Town. A separate Town and State license must be obtained for each Cannabis Establishment located on the same premises.

The Licensee for a Cannabis Cultivation Facility may operate either a Medical Cannabis Cultivation Facility or an Adult Use Cannabis Cultivation Facility and may change from one to the other without requiring a new license from the Town, provided that the Licensee must comply with any and all State licensing and/or Town ordinance requirements (including, without limitation, site plan review under Section 602 of the Freeport Zoning Ordinance) at all times for its operations on the premises.

The Licensee for a Cannabis Manufacturing and Processing Facility may operate either a medical or adult use Cannabis Manufacturing and Processing Facility and may change from one to the other without requiring a new license from the Town, provided that the Licensee must comply with any and all State licensing and/or Town ordinance requirements (including, without limitation, site plan review under Section 602 of the Freeport Zoning Ordinance) at all times for its operations on the premises.

Whenever a Cannabis Establishment license expires and is not timely renewed, and whenever the Town declines to renew a Cannabis Establishment license, other applications for a Cannabis Establishment license may be reviewed by the Town. The cap on Cannabis Establishment licenses for each category shall be maintained.

Exempt Caregivers, Qualifying Patients, and individuals engaged in Cannabis Home Cultivation

and/or operating a Medical Cannabis Small-Scale Caregiver Operation, as defined by this Ordinance, are not required to obtain a Cannabis Establishment license from the Town.

§8. Submission of initial license applications; initial application period.

A. Initial application acceptance period.

On the tenth (10th) business day following the effective date of this Ordinance, the Town shall post a notice on the Town's website and in a newspaper of general circulation within the Town of the categories of Cannabis Establishment licenses available (including the number available in each category) and shall provide for an initial application acceptance period of at least thirty (30) days for the Town's receipt of completed initial application submissions.

Initial license applications for Cannabis Cultivation Facilities submitted by the owners of lawfully existing Medical Cannabis Cultivation Facilities located in a building previously approved for commercial use as of February 6, 2024, within districts where Cannabis Establishments are allowed under the Zoning Ordinance shall be given priority over applications submitted for licensing of new Cannabis Cultivation Facilities.

Initial license applications for Cannabis Manufacturing and Processing Facilities submitted by the owners of lawfully existing Cannabis Establishments located in a building previously approved for commercial use as of February 6, 2024 within districts where Cannabis Establishments are allowed under the Zoning Ordinance shall be given priority over applications for new Cannabis Manufacturing and Processing facilities.

Each party seeking to apply for a Town License shall submit to the Town an initial application along with an application fee pursuant to a municipal fee schedule established by the Town Council and shall be classified as either an existing or new establishment and assigned a number on a form provided by the Town containing the information described in subsection (B) below. No more than one initial application may be filed by the same applicant or group of applicants for each Cannabis Establishment type operating under a specific business name on the same property. Once a number has been assigned to an applicant, it shall not be available to other parties requesting an application for the same license or license type.

If the number of priority applications in either category of license exceeds the number of available licenses in that category, a drawing will be held in accordance with subsection 9(b) below to determine those priority applicants who will be eligible to continue on with the licensing process. If the number of available licenses in each category exceeds the number of priority applications and if the number of non-priority applicants exceeds the number of licenses available to non-priority applicants, a drawing will be held in accordance with subsection 9(b) below to determine those non-priority applicants who will be eligible to continue on with the licensing process. The Town will notify applicants in writing of their eligibility status to continue on to the final application process. Only priority applicants and randomly selected non-priority applicants will be permitted to submit a final application to the Town.

B. Content of initial application; submission requirements.

An initial application for a license shall be submitted on a form provided by the Town. All applicants shall be qualified according to the provisions of this Ordinance. The initial application for a Cannabis Establishment license shall contain the following information:

1. The applicant's full legal name, including the names of all partners, members, officers, directors, shareholders and owners.
2. The applicant's business name, mailing address, email address, and phone number.
3. Written proof that the applicants are at least twenty-one (21) years of age.
4. The type of Cannabis Establishment for which the applicant is seeking a license and a general description of the business.
5. A description of the premises for which the license is sought, including street address, tax map and lot number and zoning district.
6. A copy of a map depicting all approximate property boundary lines and land uses on each property located within 1,000 feet of the approximate property boundary lines where the premises to be licensed are located.
7. Sufficient documentation demonstrating the applicant's entitlement to possession of the premises pursuant to a rental agreement, lease, purchase and sale agreement, option, deed or other entitlement to possession and/or ownership of the premises.
8. Evidence of any existing State authorizations, including evidence of a Caregiver or Dispensary registration in good standing, a conditional license pursuant to Title 28-B, and a copy of the applicant's State license application and supporting documentation, as submitted to the State licensing authority, where applicable.
9. If the applicant holds any other licenses under this Ordinance the applicant shall provide the names and locations of such other licensed/permitted businesses, including the current status of the license or permit.
10. If the Town Manager or their designee determines that a submitted initial application is not complete, they shall notify the applicant in writing within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) calendar days of the Town Manager's or their designee's request, the initial application may be denied and excluded from any drawing that may be held pursuant to Section 9(b).

C. Application fees.

The initial license application submission must be accompanied by an application fee pursuant to a municipal fee schedule established by the Town Council. The Town shall return the application fees submitted by the applicant(s) who are not selected for submission of a final application. Application fees paid by the applicant(s) who are selected for submission of a final application shall be non-refundable unless a selected applicant notifies the Town Manager or their designee in writing, no later than ten (10) business days after receiving written notice from the Town of having been selected, of

the applicant's withdrawal from the final application process.

D. Future availability of licenses.

If, after the expiration of the initial round of licensing under subsection (A), one or more Cannabis Establishment licenses becomes available due to final termination or abandonment of an existing license, a change in the maximum number of licenses available in this Ordinance, or otherwise, the Town shall post a notice on the Town's website and in a newspaper of general circulation within the Town of the category or categories of license available. The notice shall include dates during which initial license application submissions will be accepted for the license(s) available, and shall otherwise follow the same process described in subsection (A) above for determining the applicants who will be eligible to submit a final license application in the category or categories available.

§9. Maximum number of licenses; drawing.

- (a) For each type of Cannabis Establishment, the maximum number of local licenses that are authorized at any one time is as follows:
 - (1) Cannabis Cultivation Facility: six (6).
 - (2) Cannabis Manufacturing and Processing Facility: four (4).
- (b) *Drawing.* The Town Manager or their designee will determine when a drawing may be required in order to select priority and/or non-priority applicants who are eligible to submit a final license application in a license category or categories available. The Town Manager or their designee shall select the manner of drawing to be conducted, such as by a drawing of lots or similar process of random selection; provide notice of time, place and manner of the drawing to all non-priority applicants whose applications will be part of the drawing; and oversee the drawing process.

§10. Final Application.

Applicants authorized under Section 8 above, as applicable, shall complete and file a final application on a form provided by the Town including the following supporting materials:

- a) Evidence of conditional license approval by the Maine Department of Administrative and Financial Services Office of Cannabis Policy ("OCP"), where applicable, or evidence that the applicant is a registered caregiver or dispensary who, at the time of submission of a final application, possesses a valid, active registry identification card from the State pursuant to 22 M.R.S. § 2425-A, where applicable;
- b) Evidence of Site Plan Review and approval by the Project Review Board, in accordance with Section 535(B)(3) of the Freeport Zoning Ordinance; and
- c) Evidence that the applicant remains in compliance with the requirements of Section 8(B), including an attested statement by the applicant that the information provided in

the applicant's initial application under subsection 8(B)(9) remain unchanged.

Applicants shall have one (1) year to complete and submit their final application to the Town of Freeport. Calculation of said year begins on the date of the issuance of a written notice from the Town of Freeport confirming their eligibility to continue on to the final application process. If an applicant fails to submit a completed application within one (1) year as described above, the application will be considered abandoned. If an application is abandoned, the Town will make that authorized license available to other applicants in accordance with Section 8, where applicable.

If the Town Manager or their designee determines that a final application submitted is not complete, the Town Manager or their designee shall notify the applicant of the additional information required to process the application. If such additional information is not submitted within thirty (30) calendar days of the Town's request, the application may be denied by the Council, or by the Council's designee.

§11. Action on final application; issuance of Town License.

- (a) *Public hearing.* The Town Manager or their designee, upon receipt of a complete final application, shall schedule a public hearing at a regular or special meeting of the Town Council and shall arrange for public notice of the public hearing to appear in a newspaper of general circulation within the Town of Freeport at least seven (7) days prior to the date of the scheduled public hearing.
- (b) *Council Action.* The Town Council, after notice and public hearing, shall determine whether the applicant complies with the requirements of Sections 10(a) – (c) of this Ordinance. Upon such a determination by the Council, the Council shall grant local authorization to the applicant for State licensing purposes. The Council shall issue a final Town License to the applicant upon receipt of the following: (a) evidence of final approval or authorization by the State, where applicable; (b) payment of the non-refundable final application fee pursuant to a municipal fee schedule established by the Town Council; and (c) a finding by the Council or designee that the application and the proposed facility are in compliance with the terms of this Ordinance, state law and any other Town ordinances and regulations.
- (c) *Responsibilities and review authority.*
 - 1. The Town Council shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this Ordinance and any other Town ordinances or regulations and to address concerns about operations that may be resolved through such conditions. The failure to comply with such conditions shall be a violation of the license.
 - 2. No Town License for a Cannabis Establishment shall be granted until the Police Chief, the Fire/Rescue Chief, the Codes Enforcement Officer, and if applicable, the Health Inspector, have all made the determination that the applicant complies with this and all other local ordinances and state laws and each individual provides a written recommendation regarding such compliance.
 - 3. The Town Council may adjust the time period for renewal of a Town license to a period that is shorter or longer than a calendar year in order to align the Town's license renewal date with the State's license renewal date, where applicable. In that event, the applicant's license renewal fee shall be prorated based on the number of days that the renewed Town license will remain in effect.

§12. Display of licenses.

State and local licenses and registrations shall be displayed in a conspicuous location within the Cannabis Establishment for which the licenses are issued visible to employees of the Cannabis Establishment.

§13. Duty to update information.

Licensees under this Ordinance shall have the duty to provide the Town with updated and accurate information regarding all of the information provided pursuant to the application process within ten (10) business days of any change. Failure to provide updated current and accurate information to the Town is grounds for suspension, revocation or non-renewal of the license.

§14. Standards for approval, denial, revocation.

The standards for approval of a local authorization and a final Town license are set forth in Section 10. An application for a Cannabis Establishment license shall be denied by the Town Council if the applicant fails to meet the location, buffering and setback requirements of the Zoning Ordinance, fails to pay all fees due under this Ordinance (as specified in a municipal fee schedule established by the Town Council), or fails to obtain and maintain in effect any required State approval or authorization for the same premises. An existing license may be suspended or revoked by the Town Council after notice and hearing, if the applicant, or any owner of the applicant or Licensee:

- a) Fails to meet the requirements of this Ordinance, or any other applicable statute, ordinance or regulation, including any applicable Town location, setback, building and life safety code requirements;
- b) Fails to meet the conditions placed by the Town Council on a license and/or the conditions placed on the Site Plan Approval granted for the property by the Project Review Board, if any;
- c) Has provided false or misleading information in connection with the license application;
- d) Has failed to update information as required in Section 13;
- e) Has failed to obtain or maintain in effect State approval, authorization or registration; or
- f) Fails to pay any applicable Town license fee.

In suspending, revoking, or refusing to renew a license for a Cannabis Establishment, the Council may take into consideration:

- a) The nature and/or number of formal written complaints the Codes Enforcement Officer or law enforcement officials have received and/or investigated;
- b) Failure to correct or abate a violation that the Town is authorized to enforce; and
- c) Failure to correct or abate any violation of this Ordinance, any other applicable

Town ordinance, or any State cannabis rule or regulation.

§15. Transferability of licenses.

No license issued for a Cannabis Establishment may be assigned to another individual or entity without prior approval by the Town Council. A Cannabis Establishment Licensee, including a sole proprietor, may transfer ownership and ownership interests, including partial ownership interests, in a Town License only after the corresponding change in ownership of its State license has been approved by the Office of Cannabis Policy (“OCP”), where applicable.

A Cannabis Establishment Licensee may transfer ownership in a local license only after the Licensee provides the following to the Town:

- a. Documentation that the Licensee is current in the payment of all related license fees and fines owed to the Town; and
- b. Documentation that the Licensee is in compliance with the terms of its existing license, this Ordinance and any other applicable Town ordinances;
- c. Documentation that the proposed transferee is a registered caregiver who possesses a valid, active registry identification card satisfactory to OCP, where applicable.

Upon receipt of the above documentation, the Town shall provisionally approve the transfer of the license to the proposed transferee, conditioned upon the proposed transferee receiving any and all applicable State approvals or authorizations. Upon a finding by the Town Council or designee that the proposed transferee has complied with all of the terms of this Ordinance and any other applicable Town ordinances and regulations, and has received final authorization or approval by the State to operate pursuant to the license to be transferred, where applicable, the Town Council shall grant final approval of the license transfer. Unless specifically authorized by the Town Council, no transferee of a Cannabis Establishment license may conduct activities pursuant to that license until the Town Council has granted final approval of the license transfer.

Licenses are limited to the premises for which they are issued and are not transferable to another location unless the Town Council, after notice and hearing in accordance with the procedures of Section 11(a), finds that the change in location will comply with the requirements of this Ordinance, the new location has received site plan review and approval and any other local approvals, if required, and the change in location will not adversely affect neighboring properties or other licensees.

§16. Term of license; Renewals.

A. Term of license.

Except as provided in Section 11, the term of any license shall end one year from the date of issuance.

B. Renewals.

Renewals shall be subject to the same submission and review standards as contained in Sections 8 and 10 herein, provided that license renewals shall not require a new site plan review.

All applications and renewals require notice and a public hearing, in accordance with the procedures in Section 11(a), and approval of the Town Council. As part of the application/renewal process, the Town Council shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate, or limit past problems.

Licenses shall be renewed by appropriate application on forms provided by the Town and payment of the applicable license renewal fee (pursuant to a municipal fee schedule established by the Town Council) within sixty (60) days prior to the expiration date of the license. Any person failing to renew any annual license required by the provisions of this Ordinance within thirty (30) days after the expiration ~~or renewal~~ date and continuing to operate are in violation of this Ordinance. Failure to renew any annual license required by the provisions of this Ordinance within thirty (30) days after the expiration ~~or renewal~~ date will result in loss of said license, and an application for the renewal of an expired license submitted beyond that date shall be treated as a new license application.

§17. Right of access; Inspections

Every Cannabis Establishment shall allow the Police Department, Fire/Rescue Department, Codes Enforcement Officer, Health Inspector and/or any other town officers authorized by the Town Manager, to enter the premises at reasonable times for the purpose of checking compliance with all applicable state laws and local ordinances and regulations, including this Ordinance. All Cannabis Establishments shall be subject to inspection at least annually by the Fire/Rescue Department and Codes Enforcement Office to ensure compliance.

Cannabis Establishments are responsible for providing any isolation/protective gear needed to allow inspectors to access any of the business's facilities. Failure to have such gear available or refusing to allow an inspector to access any part of a Cannabis Establishment is a violation of this Ordinance and grounds for suspension or revocation of a license.

§18. Violations; Penalties.

In addition to revocation or suspension of a Cannabis Establishment license as provided in this Ordinance, any person, including but not limited to, a Cannabis Establishment 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.

Commencement of any Cannabis Establishment business operation 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 Codes Enforcement Officer. Upon such notification, the Town may pursue fines and/or penalties under 30-A M.R.S. §4452.

Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Ordinance. All fines and penalties, together with costs of prosecution of violations, which shall include the Town's cost and attorneys' fees, shall inure to the benefit of the Town. This section shall be enforced by the Codes Enforcement Officer or other designee of the Town Council.

§19. 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 Cannabis Establishment 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 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 licensed Cannabis Establishment.

§20. Appeals.

An aggrieved party may appeal any final licensing, denial, suspension, revocation or non-renewal decision of the Town Council under this Ordinance to Superior Court in accordance with 30-A M.R.S. § 4482-A and the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Chapter 180

DRUGS AND DRUG PARAPHERNALIA

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§ 180-9.	Definitions.	§ 180-24.	Severability.
§ 180-10.	Applicability.		

[HISTORY: Adopted by the Board of Selectmen of the Town of Madison as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

**Adult Use Cannabis Establishments
[Adopted 10-22-2024¹]****§ 180-1. Authority.**

This article is enacted pursuant to the Adult Use Cannabis Act, M.R.S.A. Title 28-B, Subchapter 4 and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A § 3001.

§ 180-2. Purpose.

The State Legislature, through the adoption of PL 2017 c. 409, the Marijuana Legislation Act and later the Adult Use Cannabis Law, requires municipalities to "opt-in" or vote to allow certain activities and facilities associated with adult use cannabis if the municipality wants to allow such activities to operate in the municipality. The Town of Madison decided that adult use cannabis facilities (including manufacturing, testing, commercial cultivation, social club, and retail) are not appropriate facilities for Madison. The purpose of this article is to provide for and regulate adult use cannabis establishments as defined in this article and by the State of Maine under the Adult Use Cannabis Act, M.R.S.A. Title 28-B, Subchapter 4 (definitions are in Subchapter 1).

§ 180-3. Definitions.

ADULT USE CANNABIS ESTABLISHMENT — An adult use cannabis cultivation facility, an adult use cannabis products manufacturing facility, an adult use cannabis store, an adult use cannabis social club or an adult use cannabis testing facility.

CANNABIS — The leaves, stems, flowers and seeds of a cannabis plant, whether growing or not. "Cannabis" includes cannabis concentrate but does not include hemp as defined in M.R.S.A. Title 7, § 2231, Subsection, 1-A, Paragraph D or a cannabis product.

CANNABIS STORE — A facility licensed under M.R.S.A. Title 28-B to purchase and sell adult use cannabis, immature cannabis plants, seedlings from a cultivation facility, and adult use cannabis products from a products manufacturing facility to consumers.

CANNABIS TESTING FACILITY — A public or private laboratory that:

- A. Is authorized in accordance with M.R.S.A. Title 22, Ch. 558-C, § 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 Organizations for Standardization by a third-party accrediting body or is certified, registered or accredited by an organization approved by the department.

CULTIVATION FACILITY — A facility licensed under M.R.S.A. Title 28-B to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use cannabis; to sell adult use cannabis products to manufacturing facilities, to cannabis stores and to other cultivation facilities; and to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores.

MANUFACTURING or MANUFACTURE — The production, blending, infusing, compounding or other preparation of cannabis and cannabis products, including but not limited to, cannabis extraction or

1. Editor's Note: This ordinance also superseded former Art. I, Retail Marijuana Establishments, adopted 6-11-2018.

preparation by means of chemical synthesis.

PRODUCTS MANUFACTURING FACILITY — A facility licensed under M.R.S.A. Title 28-B to purchase cannabis from a cultivation facility or another products manufacturing facility; to manufacture, label and package cannabis and cannabis products; and to sell cannabis and cannabis products to cannabis stores and to other products manufacturing facilities.

§ 180-4. Prohibition on adult use cannabis establishments.

Adult use cannabis establishments are expressly prohibited in the Town of Madison.

§ 180-5. Effective date; duration.

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

§ 180-6. Violations and penalties.

This article shall be enforced by the municipal officers or their designee. Violations of this article shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

ARTICLE II
Medical Use Cannabis Establishments
[Adopted 10-22-2024]

§ 180-7. Authority.

This article is enacted pursuant to the Medical Use of Cannabis Act, M.R.S.A. Title 22 and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

§ 180-8. Purpose.

- A. The purpose of this article is to allow for the licensed operation of medical use cannabis caregiver retail stores and medical use cannabis dispensaries in Madison, while ensuring that the same are operated safely and in accordance with state law. The purpose of this article is also to prevent the location of such establishments in close proximity to schools, day care centers, houses of worship, public parks or recreational areas, or other medical cannabis establishment(s).
- B. This article does not authorize the operation of medical use cannabis manufacturing facilities and medical cannabis testing facilities. In addition, this article does not authorize the operation of any adult use cannabis establishment.
- C. The operation of a medical cannabis caregiver within their primary residence, or in the primary residence of one or all its officers or managers, is exempt from the licensing requirements of this article. Nothing in this article is intended to prohibit any lawful use, possession, or conduct pursuant to the Maine Medical Use of Cannabis Act, 22 M.R.S.A. c. 558-C.

§ 180-9. Definitions.

CANNABIS — The leaves, stems, flowers and seeds of a cannabis plant, whether growing or not. "Cannabis" includes cannabis concentrate but does not include hemp as defined in M.R.S.A. Title 7, § 2231, Subsection 1-A, Paragraph D or a cannabis product.

CAREGIVER RETAIL STORE — A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods and services directly to a consumer, and that is used by a registered caregiver to offer cannabis plants or harvested cannabis for sale to qualifying patients.

MANUFACTURING FACILITY (MEDICAL) — A registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in cannabis extraction under M.R.S.A. Title 22, Ch. 558-C, § 2423-F.

MEDICAL USE — The acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of cannabis or paraphernalia relating to the administration of cannabis 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 M.R.S.A. Title 22, Ch. 558-C.

MEDICAL USE CANNABIS ESTABLISHMENT — A medical use cannabis caregiver store or a medical use cannabis dispensary that operates in a location that is not the caregiver's primary residence, or in the case of a caregiver that is a registered entity, the primary residence of any of the entity's officers, partners, managers, or members. A medical cannabis establishment does not include a medical marijuana manufacturing facility or a medical marijuana testing facility, neither of which are authorized to operate in the Town of Madison.

REGISTERED MEDICAL USE DISPENSARY — An entity registered under M.R.S.A. Title 22, Ch.

558-C, § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients and caregivers of those patients.

§ 180-10. Applicability.

This article applies to medical use cannabis establishments. Home cultivation of adult use or medical marijuana for personal use is exempt from the licensing requirements of this article.

§ 180-11. Permitted establishments.

- A. Only cannabis establishments specifically authorized by an "opt-in" vote at a legally held Town Meeting shall be permitted. On June 10, 2024, the Town voted to "opt-in" to the retail sales of medical cannabis products. All other cannabis establishments are not permitted.
- B. A maximum of three medical cannabis establishments shall be permitted at any one time in the Town of Madison. If a medical cannabis establishment license becomes available through revocation, forfeiture or expiration, it shall be awarded on a first-come-first-served basis to the individual or entity having first submitted a complete license application that satisfies all applicable approval standards within this article. Notwithstanding this provision, if the business assets of a medical cannabis establishment are being transferred by sale to another individual or entity through purchase or otherwise, the purchaser shall have 60 days after closing of the transaction to apply for a new license, and 120 days after closing of the transaction to receive a new license without losing entitlement to a license for the medical cannabis establishment.

§ 180-12. License required.

- A. A medical use cannabis establishment shall not operate until it is licensed by the state. An applicant may not operate a cannabis establishment without a state license and all other necessary local approvals.
- B. No person shall establish, operate or maintain a medical use cannabis establishment without first obtaining an annual license from the Select Board.
- C. The Select Board may only issue one total annual medical use cannabis establishment license to a single business, individual or owner. For the purpose of this restriction, a "business" or "owner" shall include a separate business entity where the majority of ownership interests are held by the same individual(s) or entity/entities.
- D. The Select Board is authorized to issue no more than three annual medical cannabis use establishment licenses in accordance with this article.
- E. Licenses issued pursuant to this article are not transferable following a change in ownership of the licensee or a change in location of the licensed activity. Any change in ownership or change in officers of an owner of a medical use establishment shall have a priority of review to maintain the issued license, provided that a completed license application is submitted prior to the change of ownership.
- F. Medical use establishment licenses shall be administered on a first come, first serve basis based upon the date the application is deemed complete.

§ 180-13. Nonconforming/grandfathered uses and activities.

- A. The standards of § 180-14 Site requirements, are not applicable to the licensing process of grandfathered or non-conforming activities so long as any grandfathered or non-conforming use of this article obtains a license within six months of the adoption of this article.
- B. If a non-conforming use or business is terminated by the owner/operator and is discontinued for 12 consecutive months, such use shall no longer be permitted. Abandonment shall constitute discontinuance. Any conforming use housed in a building or structure destroyed by fire, or other cause to the extent 50% or more of the market value of the structure before such damage or destruction, shall be presumed to be forfeited at the time of the damage, and such use shall not be resumed, unless reconstruction is started within 18 months.

§ 180-14. Site requirements.

- A. No medical cannabis establishment shall be sited within 1,000 feet of safe zones designated by the Town of Madison in accordance with state law, 30-A M.R.S.A. § 3253.
- B. No medical cannabis establishment governed by this article may be sited in the Shoreland Zone, or in a floodplain or wetland or any other area(s) controlled by ordinance restrictions.
- C. All establishments will be designed in such a way to minimize the impact on neighboring properties and public services. New medical cannabis establishments must adhere to the submission requirements outlined in the Madison Site Plan Review Ordinance (if required).²

§ 180-15. Licensing procedures.

- A. The initial application for a medical cannabis establishment license shall be processed by the Town Manager but reviewed and considered by the Select Board for approval. Applications shall be made on a form prepared by the Town and must include all information required by § 180-16, Application, and of the form.
- B. A public hearing on an application for an initial license shall be scheduled within 30 days of receipt of a completed application.
- C. The Code Enforcement Officer (CEO), within 15 days of application receipt, shall verify that the proposed premises of the establishment will comply with this article and with all other applicable state and local laws and regulations and report the findings in writing to the Select Board.
- D. An annual renewal application shall be subject to the same review standards as applied to the initial issuance of the license application; however, a renewal application may be approved by the Town Manager and CEO if there have been no code violations or complaints.
- E. The Town Manager shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this article. The Town Manager may consult with other departments and any appropriate state licensing authority as part of this investigation.
- F. The Select Board shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this article or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- G. No local license shall be granted until the Town Manager and CEO have both made a positive

2. Editor's Note: See Ch. 484, Site Review.

recommendation upon the applicant's ability to comply with this article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or state law, it shall be the duty of the applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection at any reasonable time that admission is requested.

§ 180-16. Application.

- A. Each applicant for a medical use cannabis establishment license shall complete and file an application on a form prescribed by the Town Clerk, together with the license fee.
- B. Each application shall include:
 - (1) A copy of the applicant's state license application and supporting documents as filed with the state licensing authority.
 - (2) Evidence of all state approvals or conditional approvals required to operate a medical use cannabis establishment.
 - (3) If not included in the applicant's state license application, attested copies of the articles of incorporation and bylaws if the applicant is a corporation, operating agreement if the applicant is a limited-liability company, evidence of partnership if the applicant is a partnership, or articles of association and bylaws if the applicant is an association.
 - (4) If not included in the applicant's state license application, an affidavit that identifies all owners, officers, members, managers, or partners of the applicant, their places of residence at the time of the application and for the immediately preceding three years.
 - (5) Furnish information with the application (i.e., date of birth and social security number) necessary to allow the Town to perform criminal background checks on the application and each officer, owner, manager or partner of the applicant.
 - (6) Submit evidence of right, title or interest in the premises in which the medical use cannabis establishment will be sited, along with the written consent of the owner of the premises for such use if the applicant is not the owner.
 - (7) Submit proof of insurance with coverage limits meeting the requirements set forth in the application form.
 - (8) Evidence of all land use approvals or conditional land use approvals required, as necessary, including but not limited to a building permit and site plan approval.
 - (9) An operating plan that at minimum addresses the following:
 - (a) Description of nature of all products and services.
 - (b) Operating hours.
 - (c) Disposal of waste.
 - (d) Ventilation and odor.
 - (e) Parking.
 - (f) Landscaping.

(g) Signage and how it conforms with state guidelines for medical cannabis establishments.

§ 180-17. License expiration and renewal.

- A. Each local license issued shall be effective for one year from the date of issuance.
- B. Annual renewal applications must be submitted 30 days prior to the date of expiration of the annual local license. An application for renewal of an expired license shall be reviewed by the CEO and Town Manager. The renewal may be approved by CEO and Town Manager if the applicant is deemed in good standing with the articles of this ordinance and all other applicable local and state ordinances and licensing requirements. The applicant for renewal may be elevated to review by the Select Board if either the CEO or the Town Manager deems it needs additional review.

§ 180-18. License fee.

The Select Board shall have the authority to set license fees and set a limit on the number of licenses granted to medical cannabis establishments. Fees for a local license shall be as set forth by the Select Board, added to the Town of Madison Fee Schedule,³ and shall be paid annually.

§ 180-19. Denial, suspension, or revocation of license.

A license may be denied to the following persons:

- A. A person who fails to meet the requirements of this article. Where an applicant is an entity rather than a natural person, all natural persons with an ownership interest must meet these requirements.
- B. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Town that is reasonably necessary to determine whether the license is issuable.
- C. An applicant who is not at least 21 years of age.
- D. A person who has had a license for a cannabis establishment revoked by the Town or by the state.
- E. An applicant who has not acquired all necessary state approvals and other required local approvals prior to the issuance of a local license.
- F. An applicant who has been convicted of a criminal violation arising out of operation of a cannabis establishment.
- G. The Town may suspend or revoke a license for any violation of this section or any other applicable building-related and life safety code requirements. The Town may suspend or revoke a license if the licensee has a state license for a cannabis establishment suspended or revoked by the state. The licensee shall be entitled to notice and a hearing to any suspension or revocation.

§ 180-20. Right of access inspection.

Every medical cannabis use establishment licensee shall allow law enforcement officers and the Madison CEO to enter the premises at reasonable times for the purpose of checking compliance with all applicable state laws and this article.

3. Editor's Note: See Ch. 583, Fees.

§ 180-21. Operating requirements.

The licensee shall comply with all of the following requirements during the term of the license:

- A. Current license shall be displayed at all times in an open and conspicuous place in the establishment for which the license has been issued.
- B. All licensed premises shall be permanent locations. Licensees shall not be permitted to operate a medical cannabis establishment in a temporary or mobile location.
- C. A medical cannabis establishment shall meet all operating and other requirements of state, local, and federal law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing cannabis establishments, the stricter law or regulation shall control.

§ 180-22. Enforcement.

The owner of the premises on or in which the medical cannabis establishment is located, who is not the licensee of the medical cannabis establishment, is jointly and severally liable with the licensee for any violation of this article. This article shall be enforced by the CEO, in conjunction with the Select Board. In any court action, the Town may seek injunctive relief in addition to penalties. If court action is required to enforce this article, the Town shall be awarded its enforcement costs, including reasonable attorney's fees.

§ 180-23. Violations and penalties.

Any violations of this article, including failure to comply with any conditions, may be enforced in accordance with 30-A M.R.S.A. § 4452. Every day a violation exists constitutes a separate violation. Operation of any medical use cannabis establishment without a Town license shall be a violation of this article. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the CEO. Upon such CEO notification, and failure of the licensee or other individual or business to take the required remedial action in a timely manner, the Town can pursue fines and/or penalties under 30-A M.R.S.A. § 4452.

§ 180-24. Severability.

If any section, phrase, sentence or portion of this article 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 thereof.