

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, July 12, 2021

6:00 – 7:30 P.M. Workshop re: Town Council Goal Setting FY22

7:30 P.M. Call to Order

I. CALL TO ORDER

II. APPROVAL OF MINUTES

June 28, 2021

III. MANAGER'S REPORT

IV. PUBLIC DISCUSSION

Public discussion is for comments on items that are not on the agenda. Comments are limited to 5 minutes per person. Rebuttal comments will be limited to 2 minutes. Public discussion topics may be brought up again under New Business for further Council discussion.

V. LEGISLATION AND POLICY

21 – 075. To set a Public Hearing date of July 26th to consider and act on a moratorium ordinance re: Medical Marijuana Caregiver Uses.

VI. NEW BUSINESS

July 26th:

- To hear a report from Representative, Steve Moriarty, regarding the Legislative Session.
- To hear a report and act on a recommendation from Tax Assessor, John Brushwein, to set the municipal tax rate for FY'22.

VII. ADJOURNMENT

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, June 28, 2021

5:30 P.M. Recognition Ceremony for George Turner

7:00 P.M. Call to Order

Present: Councilors Copp, Edes, Foster, Gruber, Segrist, Storey-King and Vail

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Copp, to accept the June 14, 2021 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

II. MANAGER'S REPORT

Paving for this year has begun. The west side of Town is complete and additional paving will continue on the Foreside in a few weeks. We will be paving on Main Street & Greely Road Extension perhaps as soon as July 19th.

Please comply with our Fireworks Ordinances and use extra caution with the dry conditions we are experiencing. Details on the discharge of fireworks are on our website and on the Town Crier.

Construction on Longwoods Road to Turkey Lane (Rt 9) will begin the week of July 26th and should wrap up mid-September.

We closed out the fiscal year in great shape, as you will hear shortly from our Finance Director. I am proud of all our staff who have been here since last June (13 months) providing services to all our residents through some difficult times.

We are expecting a less than 1% increase in the tax rate for FY'22. Tax Assessor, John Brushwein will be here on July 26th to review the tax rate. As of right now, we are expecting about a 30-cent increase.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

21 – 066 To consider and act on a Mass Gathering Permit for the Maine Celebration of Lights to be held from November 26th through January 2nd at the Cumberland Fairgrounds.

Eugene Dean of Fiesta Shows, explained that this is a 1-mile, lit path of LED lights, some animated, with holiday music played through an FM transmitter, directly played in attendee's vehicles. There is no exterior sound generated. The speed limit is 5 to 10 mph. There will be a drive-through food booth. It is a very family friendly event with 2 segments of time that they operate, 5-7 p.m. and 7 – 9 p.m.

Councilor Segrist asked the Town Manager if someone has looked at this from a safety standpoint.

Town Manager Shane said that the Town Clerk met with the event coordinators and the Public Safety Chief's, who have approved the layout.

Councilor Storey-King said that she has a lot of concerns about traffic and asked Mr. Dean if Fiesta Shows is a for-profit organization. The same event held at the Botanical Gardens in Boothbay is a little different because they are a non-profit organization.

Mr. Dean said that they are a for-profit company.

Councilor Foster asked how this event would coincide with the harness racing and how the traffic compares to the fair.

President of the Cumberland Farmer's Club, Lyle Merriweather, said that there will be some overlap with harness racing, but some of the racing may be winding down by then, depending on weather conditions. Vehicle traffic backing up is not a concern. They have determined that they have room to stage 125 cars on the fairgrounds property without having them in the road.

Chairman Vail said that this may be a for-profit enterprise, but he is assuming that there is some remuneration to the Farmer's Club.

Mr. Merriweather said that there absolutely is. They are also a non-profit, but the past year has been very difficult, and they have a lot of costs to cover in order to keep their heads above water.

Chairman Vail asked for any public comment.

Bruce Sherwin of Blanchard Road asked if there would be police, fire or EMS coverage at this event and will there be any cost to the Town.

Town Manager Shane said that there will be no cost to the Town. Any public safety coverage cost incurred will be reimbursed at a detail rate.

Councilor Edes said that after the year we have had with COVID, to get people out to enjoy the holidays is a good thing. This has his full support.

Councilor Copp agreed. There is no noise, people stay in their vehicles, and it helps the fairgrounds. He will support this.

Councilor Segrist said that he agrees with Councilor's Edes and Copp. He will likely take his family to this event. He will support it.

Councilor Storey-King said that she is concerned for the neighbors with 1,200 cars per evening going through the fairgrounds, and this is not an agricultural use.

Councilor Foster said that this is a wonderful event, but it is a lot of traffic. She is recalled the discussions about the harness racing and the feedback that we got from the neighbors. This is a lot of impact on one neighborhood with traffic.

Chairman Vail said that the burden is on the applicant to make this work for the neighborhood. If it doesn't, they won't have to worry about coming back next year.

Motion by Councilor Copp, seconded by Councilor Gruber, to approve the Mass Gathering Permit for the Maine Celebration of Lights to be held from November 26th through January 2nd at the Cumberland Fairgrounds.

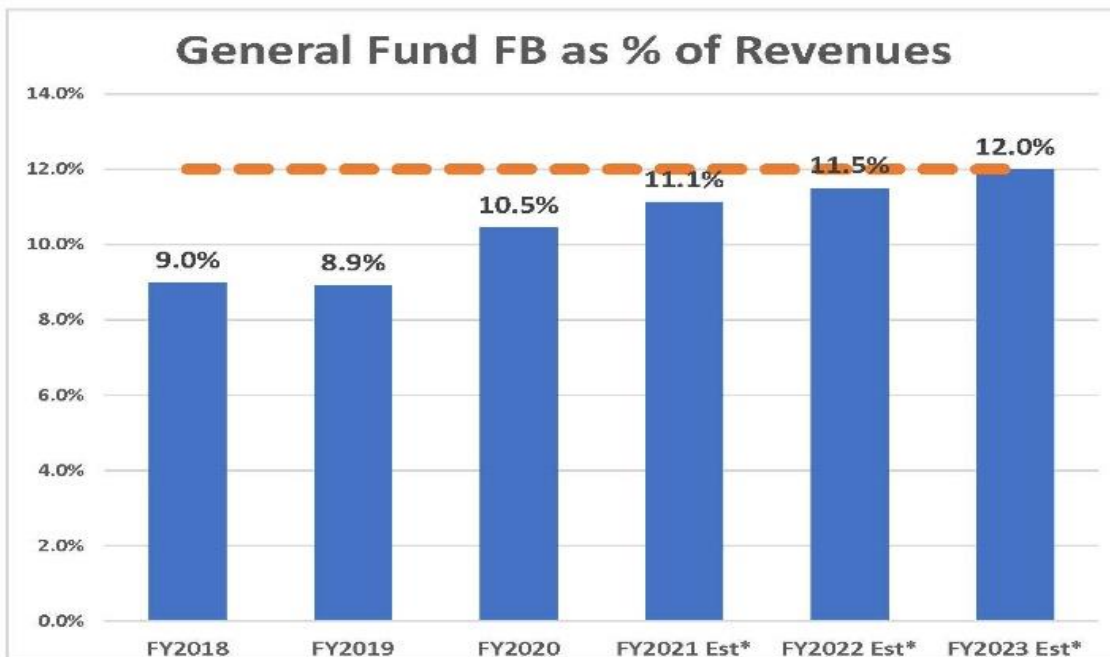
VOTE: 6-1 (Storey-King opposed) MOTION PASSES

21 – 067 To hear a report from the Finance Director re: preliminary end of year financials.

Finance Director, Helene DiBartolomeo, presented the following:

**TOWN OF CUMBERLAND
FUND BALANCE HISTORICAL FUTURE EXPECTATIONS**

	GF Revenues	GF EOY FB	Actual:	Goal:	Amount Needed	Goal
FY2014	23,806,938	1,668,540	7.0%	12.0%	1,188,293	2,856,833
FY2015	25,207,688	2,066,785	8.2%	12.0%	958,138	3,024,923
FY2016	27,235,216	2,511,108	9.2%	12.0%	757,118	3,268,226
FY2017	27,874,301	2,436,028	8.7%	12.0%	908,888	3,344,916
FY2018	28,800,124	2,590,074	9.0%	12.0%	865,941	3,456,015
FY2019	30,580,973	2,729,270	8.9%	12.0%	940,447	3,669,717
FY2020	31,405,601	3,282,135	10.5%	12.0%	486,537	3,768,672
FY2021 Est*	32,801,828	3,650,537	11.1%	12.0%	285,682	3,936,219
FY2022 Est*	33,785,883	3,885,377	11.5%	12.0%	168,929	4,054,306
FY2023 Est*	34,799,459	4,175,935	12.0%	12.0%	-	4,175,935



*Town Policy for fund balance is 12% - Above is the established plan to get to 12%.

TOWN OF CUMBERLAND
ESTIMATED GENERAL FUND YEAR END EXPENSES
JUNE 30, 2021

Dept Name	Dept#	2021 Budget	2021 Actual	Est PR	Adjustmt	Net Avail	Notes
Admin	130 Total	616,244.00	535,355.60	30,883.10	3,000.00	47,005.30	Postage
Assessor	140 Total	112,471.00	103,211.65	7,922.88		1,336.47	
Clerk	150 Total	275,187.00	223,133.16	17,200.90		34,852.94	
IT	160 Total	212,517.00	314,961.39	96.88	(21,096.00)	(81,445.27)	Adj for 12 mo Library; Adj for 12 mo Rec; June Expense for IT Contact Svc
Elections	165 Total	14,741.00	11,859.92		994.36	1,386.72	Est for election workers
Planning	170 Total	73,137.00	56,790.57	4,938.94		11,407.49	
Legal	190 Total	47,500.00	54,680.73		12,000.00	(19,180.73)	Legal fees for May & June est at \$6k/mo
Police	210 Total	1,477,754.00	1,302,085.47	83,554.10	5,000.00	82,114.43	Fuel, telephone and cont svc
Fire	220 Total	1,070,962.00	934,473.25	71,530.92	37,000.00	27,957.83	Requested purchases
CEO	240 Total	143,113.00	141,706.85	10,794.50		(9,388.35)	
Harbor Master	250 Total	25,226.00	16,933.73			8,292.27	
Animal Control	260 Total	35,412.00	22,258.33	4,494.36	500.00	8,159.31	
Public Works	310 Total	1,269,713.00	1,079,388.61	52,338.40	10,000.00	127,925.99	
Waste Disposal	320 Total	592,696.00	552,239.35	311.00	50,546.42	(10,400.77)	WM June; North Coast Svcs; Sevee & Maher Landfill monitoring; Ecomaine June -
VH - Club	350 Total	27,231.00	24,666.87			2,564.13	
VH - Course	360 Total	515,427.00	535,981.64	26,042.60	10,000.00	(56,597.24)	
VH - Club House	370 Total	238,467.00	198,102.55	14,680.02	10,000.00	15,684.43	
Recreation	410 Total	914,018.00	693,639.93	43,236.80	12,824.00	164,317.27	IT Costs
AIP	420 Total	85,105.00	67,124.43	1,275.66		16,704.91	
Parks	430 Total	318,355.00	300,628.66	16,828.80	5,000.00	(4,102.46)	Water/sewer costs
W Cumberland	440 Total	8,204.00	4,859.52			3,344.48	
Library	450 Total	516,000.00	476,804.80	28,721.80	18,272.00	(7,798.60)	IT Costs
HS Bldg	470 Total	8,964.00	204.00			8,760.00	
General Asst	580 Total	35,000.00	21,545.75		5,000.00	8,454.25	
Health Svc	590 Total	3,875.00	1,043.35	298.10	2,533.00	0.55	
Cem Assoc	620 Total	26,700.00	27,575.00			(875.00)	
Conservation	630 Total	13,000.00	9,917.43			3,082.57	
Debt Svc	650 Total	1,157,320.00	1,156,096.72			1,223.28	
Insurance	750 Total	277,823.00	334,193.23			(56,370.23)	WC Mod increased to 0.98 from 0.62
Fire Hydrants	800 Total	81,586.00	77,091.12		7,000.00	(2,405.12)	
Street Lights	810 Total	45,000.00	45,000.00				
Contingency	830 Total	190,000.00	59,298.49			40,701.51	
Muni Bldg	840 Total	105,160.00	98,585.12	1,283.06		5,291.82	
Abatelements	850 Total	1.00	10,555.87			(10,554.87)	Poverty abatement
MSAD	860 Total	20,104,804.00	20,104,803.77			0.23	
County	890 Total	938,569.00	938,569.00			-	
Capital	910 Total	180,000.00	180,000.00			-	
Grand Total		\$ 31,661,882.00	\$ 30,715,365.86	\$ 416,492.82	\$ 170,573.78	\$ 359,449.54	
TOTAL ESTIMATED EXPENDITURES (ACTUAL + EST PR + YE ADJ)					\$ 31,302,432.46		
KEY:							
(0.01)	=	BUDGET OVERAGE					

**Town of Cumberland
Sources and Uses of GF Surplus
Fiscal Year Ending 6/30/2021**

		\$	%
FY2020 Ending GF Fund Balance		\$ 3,282,135	10.5%
GF Revenues	Budgeted	Actuals	
	\$31,903,287	\$32,801,828	32,801,828
GF Expenses	\$31,661,882	\$31,302,432	(31,302,432)
Estimated End of Year funds available:		1,499,395	
Less transfers for:			REF
GF Reserve -Assessing: Revaluation		(170,000)	A
GF Reserve- HR: Professional Training		(20,000)	B
Bond Fund - Public Works Garage		(200,000)	C
Debt Service Reserves		(100,000)	D
CIP Roads: Quiet RR Zone		(300,000)	E
CIP Equipment: SCBA equipment (8 sets)		(56,000)	F
CIP Equipment: Turnout Gear (7 sets)		(21,000)	F
CIP Equipment: Ambulance vehicle		(125,000)	F
CIP Solar Field: Solar Field - fund 1/6th (6 years to fund)		(116,667)	G
		(1,108,667)	H
Net change in GF reserve accounts		(22,327)	
FY2021 GF Ending Fund Balance*		\$ 3,650,537	11.1%
*Any excess above 11.1% to CIP Buildings			

Historical Society Project - CIP Buildings:		
FY2021 Expenses	\$ 262,776	
Swan Contract (Approved in March 2021)	260,000	
Mason	40,000	
Landscaping	25,000	
Remaining for Historical Society Project	587,776	
Training/Admin Facility - CIP Buildings	363,698	
Transfer from Land Acq to CIP Buildings	\$ 951,474	I

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**TOWN OF CUMBERLAND
FY2021 Q4 FUND BALANCE**

As of: 6/22/2021

Fund	Beg Fund Balance	FY 2021 Actual				REF	End Fund Balance	Fund Name	Fund Balance	PY Fund Bal
		Transfer in (out)	Revenues	(Expenses)	FY21 Trf					
001	3,076,468	(155,154)	32,801,828	(31,147,278)	(1,108,667)	H	3,467,197	General Fund	10.6%	9.8%
100	-	-	-	-	170,000	A	170,000	GF Resrv - Assessing		
106	63,634	55,000	-	(62,531)	-		56,103	GF Resrv - Circuit B		
208	74,195	25,000	-	(31,030)	20,000	B	88,165	GF Resrv - HR Resrv		
255	67,838	-	99,176	(107,942)	-		59,072	GF Resrv - Fuel Fund		
GF & Resv	3,282,135	(75,154)	32,901,004	(31,348,781)	(918,667)		3,840,537	Total GF & Resrv	11.7%	10.5%
213	5,602,772	-	-	(5,072,470)	200,000	C	730,302	Bond Fund		
216	(1,372,740)	(200,000)	2,482,224	(1,802,096)	-		(892,612)	TIF Fund		
244	697,791	(210,000)	-	(330,000)	100,000	D	257,791	Debt Service Reserve		
204	598,858	-	518,795	(166,179)	(951,474)	I	0	Land Acquisition		
238	4,553	10,000	-	(1,476)	-		13,077	Tennis Court		
240	20,258	-	-	-	-		20,258	Rial Parking Reserve		
252	(452,234)	348,000	217,000	(44,700)	300,000	F	368,063	CIP Roads		
254	452,892	32,000	146,801	(289,125)	202,000	F	534,070	CIP Equipment		
259	51,417	-	7,579	(298,199)	951,474	I	712,271	CIP Buildings		
261	(33,247)	87,600	38,543	(103,761)	116,667	G	105,802	CIP Solar Field (New FUND FY20)		Purchase in 2027 @ \$700k
265	(42,306)	7,554	8,938	(166,547)	-		(192,361)	Street Light Upgrades (New FUND FY20)		
Capital	599,692	485,154	937,636	(1,079,988)	618,667		1,561,181	Total Capital		
108	62,221	-	25,050	(18,978)	-		68,293	Fuel Assist		
200	3,674	-	-	-	-		3,674	TB Nordic		
201	28,017	-	-	-	-		28,017	Misc Restr		
237	-	-	155,000	(155,000)	-		-	Elections Grant		
248	(3,650)	-	15,918	(11,528)	-		740	Fire Fund		
253	24,423	-	1,749	(6,695)	-		19,477	PD Community		
600	52,471	-	15,005	(16,100)	-		49,374	Lib Fund		
Spec Rev	167,156	-	210,720	(208,301)	-		169,575	Total Special Revenue		
410	461,940	-	1,072,539	(1,029,606)	-		504,673	Sewer Fund (Unrestricted)		
420	66,060	-	339,175	(305,268)	-		99,967	Senior House (Unrestricted)		
Enterprise	528,001	-	1,411,514	(1,334,874)	-		604,641	Total Enterprise		
107	185,601	-	186,167	(102,003)	-		269,765	Food Pantry		
Total	\$ 9,690,407	\$ -	\$ 38,129,285	\$ (41,278,513)	\$ -		\$ 6,541,179	Total		

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Chairman Vail asked for any public comment.
No public comment.

Motion by Councilor Gruber, seconded by Councilor Segrist, to accept the finance report and year end transfers as presented by the Finance Committee.
VOTE: 7-0 UNANIMOUS

21 – 068 To consider and act on starting the Contract Zone Agreement process pursuant to the CZA flow chart.

Town Manager Shane explained that this project would require a change in our zoning with a Contract Zone Agreement, and this is the first step in that process. Alex Timpson is here this evening to describe the project and to answer questions.

Mr. Timpson said that this is 60 acres at 76 Longwoods Road. He is proposing that 52 of those acres be put into permanent conservation. This project will have a working farm, 3 miles of walking trails with a sculpture garden, and a grange hall (under 4,000 sf) with a small farm to table, family style restaurant. Think about a working farm, feeding people, people enjoying nature, people enjoying art and acoustic music inside, these things all go together. It will be a cultural grange hall and park for the 21st century.

Town Manager Shane said that this is only one step in a multiple step process. There will be neighborhood meetings, and meetings with the Planning Board and Town Council.

Councilor Segrist asked where the parking would be and how many cars will the parking lot hold.

Mr. Timpson said that he wants to keep the disturbed acreage under one acre. 37 to 50 cars would fit on that one-acre parking lot. You will not be able to see the parking lot from Longwoods Road.

Chairman Vail said that this is a great project that has a lot of potential.

Chairman Vail asked for any public comment.

Bill Perkins said that this concept is quite impressive but would like to make sure it won't be a new source of noise for the neighborhood. He is encouraged that the neighbors will be invited to meetings as this moves forward.

Councilor Storey-King responded that the interesting thing about a Contract Zone Agreement is that we can be intensely specific with what is allowed and not allowed, and she encouraged Mr. Perkins to participate in the neighborhood meetings.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to accept the application from The Grange at Longwoods for a Contract Zone Agreement and allow them to continue through CZA the process.

VOTE: 7-0 UNANIMOUS

21 – 069 To award the contract for railroad crossing barriers at Greely Road, Tuttle Road and Longwoods Road, to Storey Brothers.

Chairman Vail explained that this has been a multi-year process and construction costs have gone through the roof. We received 2 bids and Storey Brothers was the low bidder at \$277,050.00.

Councilor Foster said that even though the price is \$100,000 more than we anticipated, if we wait, the cost could go up even more due to raising costs of materials and the potential of the requirements changing with the sale of Pan Am Railways. This is for 3 crossings (not including the Muirfield crossing). We are hopeful that we will be able to work through the process and do something at the Muirfield crossing, but are not anticipating having to spend another \$100,000 for that crossing. The safety systems that are in place at the Muirfield crossing will most likely meet the requirements and only minimal enhancements may be needed there.

Chairman Vail asked for any public comment.

Bruce Sherwin of Blanchard Road asked what would happen if the contractor got his bid wrong and his costs go over.

Town Manager Shane said that with any project that is over \$100,000, the State of Maine requires that a performance and payment bond be issued. This is basically an insurance policy.

Motion by Councilor Edes, seconded by Councilor Gruber, to award the contract for railroad crossing barriers at Greely Road, Tuttle Road and Longwoods Road to Storey Brothers, as recommended by the Finance Committee.

VOTE: 6-0-1 (Storey-King abstained) MOTION PASSES

Sally Brown thanked the Town Council. She and her husband have the misfortune of having the railroad tracks next to their house. Thank you sounds inadequate, but she sincerely thanked everybody involved in making this happen.

21 – 070 To order the abatement of a malfunctioning wastewater system at property identified as Map R03/Lot 38, and to authorize the Town Manager or Code Enforcement Officer to abate the same, if necessary, as authorized by 30-A M.R.S. § 3248.

Town Manager Shane explained the Town will assist in fixing a malfunctioning septic system and placing a lien on the property. The Town will be repaid upon the sale or transfer of the property. Because it is a health issue, our Code Enforcement Officer is involved. It is an area of Town where there is no public water.

Chairman Vail asked for any public comment.

No public comment.

Motion by Councilor Copp, seconded by Councilor Gruber, to order the abatement of a malfunctioning wastewater system at property identified as Map R03/Lot 38, and to authorize the Town Manager or Code Enforcement Officer to abate the same, if necessary, as authorized by 30-A M.R.S. § 3248.

VOTE: 7-0 UNANIMOUS

21 – 071 To hold a Public Hearing to consider and act on a liquor license application for Cumberland House of Pizza.

Chairman Vail explained that this is a renewal due to a pause in business during COVID last year.

Chairman Vail opened the Public Hearing.

No public comment.

Chairman Vail closed the Public Hearing.

Motion by Councilor Edes, seconded by Councilor Gruber, to approve the liquor license application for Cumberland House of Pizza for the period of June 8, 2021 through January 17, 2022.

VOTE: 6-0-1 (Copp abstained) MOTION PASSES

21 – 072 To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, Section 315-6 (Rural Residential Districts); Section 315-7 (Low Density Residential District); Section 315-8 (Medium Density Residential District); 315-9 (Village Medium-Density Residential District); and 315-21 Town Center District) to increase the maximum number of children allowed in Daycare Centers and nursery schools from 20 to a maximum of 50, subject to site plan review and Section 315-47, as recommended by the Planning Board.

Town Manager Shane explained that daycares would have to reapply to the Planning Board in order to increase the number of children allowed. This will allow the abutters an opportunity to be heard. The only fee that will be applied to the daycare is to reimburse the Town for mailing abutter notices and public notice charge.

Councilor Segrist said that if a daycare increased the number of children from 15 to 50, and wanted to expand the footprint of their facility, they would have to go back to the Planning Board for approval of the expansion.

Chairman Vail opened the Public Hearing.

Jaime Storey-Kiesow, owner of Storey Time Learning Center and Aftercare on Middle Road, said that she approached the Town Manager to inquire where the number of 20 children came from. Nobody seems to know, but it is assumed that it came from previous number of licenses. Since COVID, 173 programs in the state have closed, which includes 4 programs in Cumberland, North Yarmouth and Falmouth. This affects

over 100 local families. Her current state license, based on the current building footprint, allows for 32 children but the Town allows for 20 children. She does not expect a large change in traffic flow because so many of their families are siblings. They will be able to offer preschool to the same family that needs aftercare, so they would be dropping off and picking up at the same time. Because the Town aftercare program has a waiting list, these families have no place to send their kids in the fall. She wants to be able to meet the needs of their current families. Increasing the number will allow this to happen.

Chairman Vail closed the Public Hearing.

Councilor Storey-King said that she will be voting on this even though Jaime is her cousin and Donna is her sister. This affects every daycare in Town. She sees this as a significant need in our community.

Motion by Councilor Copp, seconded by Councilor Gruber, to amend the Cumberland Zoning Ordinance, Section 315-6 (Rural Residential Districts); Section 315-7 (Low Density Residential District); Section 315-8 (Medium Density Residential District); 315-9 (Village Medium-Density Residential District); and 315-21 (Town Center District) to increase the maximum number of children allowed in Daycare Centers and Nursery Schools from 20 to a maximum of 50, subject to site plan review and Section 315-47, and to collect a fee to cover abutter notice mailings, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS

21 – 073 To hold a Public Hearing to consider and act on approval of annual Victualer’s Licenses for non-profit organizations for the period of July 1, 2021 – June 30, 2022.

Chairman Vail opened the Public Hearing.

No public comment.

Chairman Vail closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Gruber, to approve the annual Victualer’s Licenses for non-profit organizations for the period of July 1, 2021 – June 30, 2022.

VOTE: 7-0 UNANIMOUS

21 – 074 Town Council Committee assignments.

Councilor Copp read the 2021-22 Town Council Committee Assignments:

AD HOC COMMITTEES:

Aging In Place Committee	<u>Councilors Foster and Gruber</u>
Board of Appeals	<u>Councilor Foster</u>
Coastal Waters Commission	<u>Councilors Gruber, Segrist and Vail</u>
Historical Society Building Committee	<u>Councilors Gruber and Vail</u>
Housing Authority	<u>Councilor Gruber and Vail</u>
Lands & Conservation Commission	<u>Councilors Foster, Gruber and Segrist</u>
Planning Board	<u>Councilor Gruber and Vail</u>
Prince Memorial Library Advisory Board	<u>Councilor Storey-King</u>
Recreation/Community Education Advisory Board	<u>Councilor Storey-King</u>
Shellfish Conservation Commission	<u>Councilor Gruber</u>

COUNCIL COMMITTEES:

Board/Committee Nominating Committee
Senior Property Tax Committee
Cumberland/No. Yarmouth Joint Standing Comm.
Falmouth/Cumberland Chamber of Commerce
Finance Committee
Ordinance Committee
TIF Committee
ECOMAINE (RWS)
ECOMAINE – Alternate
Greater Portland Council of Government
PACTS Policy Committee
PACTS Policy Committee – Alternate

Councilor Copp, Gruber, and Segrist
Councilors Copp, Foster and Storey-King
Councilors Edes, Foster and Storey-King
Councilor Vail, Alternate, Councilor Segrist
Councilors Foster, Gruber, Segrist and Vail
Councilors Edes, Storey-King, and Vail
Councilors Copp, Gruber, Segrist
Manager Shane
Assistant Manager Bolduc
Councilor Storey-King and Vail
Manager Shane
Councilor Gruber

Motion by Councilor Foster, seconded by Councilor Storey-King, to approve the FY'22 Town Council Committee Assignments as presented.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Segrist – no new business.

Councilor Storey-King – The fireworks ordinance allows the following times for Independence Day fireworks: July 3rd from 9 a.m. to 10 p.m., July 4th from 9 a.m. to 12:30 a.m., and July 5th from 9 a.m. to 10 p.m. She hopes that people are respectful of their neighbors and if you know that you have a neighbor that has difficulty with fireworks, you might want to notify them if you intend to use fireworks. She wished everyone a happy and safe Independence Day.

She was the lone Councilor at the Farmer's Market on Saturday. She brought her dog along and enjoyed spending her time with Carolyn Small, who was there selling all things bicentennial.

Councilor Gruber – The food pantry served 55 customers last week. Thank you to all the volunteers who work at the food pantry.

The Coastal Waters Commission and the Finance Committee met last week. He appreciates all the work these committees do.

Chairman Vail – He and Councilor Foster met with the Town Manager to discuss Town Council goal setting for the next year. He is excited about the next year and getting to work. Some items that will be discussed are property revaluation, begin the update to the comprehensive plan, building a relationship with the school board, improving our relationship with North Yarmouth, exploring shared services opportunities with surrounding Towns, building community support networks, mental wellness support, climate change, farmlands, and natural resources.

Last Friday, he met with the School Board Chair, Brian Sites and Jim Moulton (North Yarmouth Select Board members). It was a very productive meeting and there was a mutual understanding that the three entities must get together and start talking about shared services, combined efforts, and an understanding that the school cannot continue to be a mechanism to take taxpayers dollars without an

explanation of the cost. More meetings will take place with all the members of the 3 boards. He feels that we can make some great accomplishments.

Councilor Foster – She extended an invitation to our entire community, as well as our neighbors in North Yarmouth, to an event on Wednesday, June 30th from 6:00-8:00 pm at Skyline Farm in North Yarmouth. The Cumberland, North Yarmouth, MSAD 51 Mental Health Committee will be holding a “Growing Gratitude” conversation with MSAD 51’s Risk Assessment/Mental Health Specialist, Eric Brown. This is a family friendly event with activities for children while the adults attend the session.

Councilor Edes – We had a gathering earlier this evening for George Turner. He thanked George for everything he has done for our Town. He thanked Councilor Segrist for his comments to George this evening and thanked Councilor Foster for her kind words to Bill Stiles last year. Their actions show the quality of our newest Town Councilors.

Councilor Copp – We received an email from a resident regarding medical marijuana facilities in the west end of Town. Some residents of the west end think that we have turned our back on this problem, which we absolutely have not. The State of Maine put us between a rock and a hard place two years ago and made us choose where we wanted these facilities to be allowed in Town. As a Council, we looked at our zoning and decided where we thought it would be best to allow these facilities. This was forced on us, and we gave it a considerable amount of thought and consideration.

VI. ADJOURNMENT

Motion by Councilor Edes, seconded by Councilor Gruber, to adjourn.

VOTE: 7-0

TIME: 9:03 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary

ITEM

21-075

To set a Public Hearing date of July 26th to consider and act on
a moratorium ordinance re: Medical Marijuana Caregiver Uses

**TOWN OF CUMBERLAND
MORATORIUM ORDINANCE REGARDING
MEDICAL MARIJUANA CAREGIVER USES**

WHEREAS, the Town Council of the Town of Cumberland (the “Town”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act (the “Act”), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and
- (2) On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and
- (3) The Town has previously enacted a Registered Caregiver Overlay District as part of its Zoning Ordinance; and
- (4) Because the Registered Caregiver Overlay District only applies to commercial zoning districts, it has not resolved legitimate and substantial questions about the impact of medical marijuana uses on the Town in other zoning districts, including questions as to compatibility with existing land uses and developments in the Town; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (5) As a result of the foregoing issues, the location and operation of medical marijuana uses within the Town have potentially serious implications for the health, safety and welfare of the Town and its residents; and
- (6) The Town currently faces the possibility of an overconcentration of medical marijuana uses, both in the Registered Caregiver Overlay District and in other districts; and
- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of medical marijuana uses in the Town; and
- (8) In the judgment of the Town Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, and Article II, § 11 of the Cumberland Town Charter, the Town of Cumberland hereby ordains:

Section 1. Moratorium. The Town does hereby declare a moratorium on the location, operation, permitting, approval, or licensing of any and all medical marijuana uses within the Town. No person or organization shall develop or operate a new medical marijuana use that was not in lawful existence on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana use.

Section 2. Definitions. For purposes of this ordinance, the term “medical marijuana uses” means a registered caregiver as defined in 22 M.R.S. § 2422(11), and includes a caregiver cultivation facility, a caregiver processing facility or any other associated use.

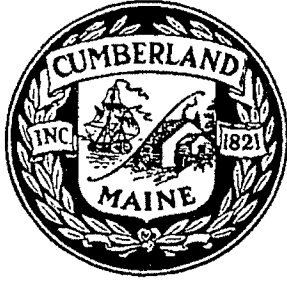
Section 3. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any proposed medical marijuana use for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Town, whether or not a pending proceeding, prior to the enactment of this Ordinance, but it shall not apply to any medical marijuana use that has received site plan approval from the Town prior to July 12, 2021.

Section 4. Conflicts/Savings Clause. Any provisions of the Town’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any medical marijuana use is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Town shall be entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Section 6. Effective Date. Pursuant to Article II, § 11(c) of the Cumberland Town Charter, this Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days after July 12, 2021, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Town, whichever shall first occur.

Section 7. Severability. Should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a decision shall not invalidate any other section or provision.



M E E T I N G
A G E N D A
O R D I N A N C E C O M M I T T E E
T O W N O F C U M B E R L A N D , M A I N E

Shirley Storey King

Bob Vail

Mike Edes

Wednesday, July 7, 2021
5:00 PM Council Chambers

- I. Review of the Turner & Gorham Ordinances**
- II. Review of Language for Moratorium**
- III. Other Business**
- IV. Adjournment**

DRAFT- 7-01-21

TOWN OF ~~CUMBERLAND~~ ~~TURNER~~, MAINE MEDICAL MARIJUANA ESTABLISHMENT LICENSE FOR REGISTERED CAREGIVERS ORDINANCE

ADOPTED ~~TBD~~ ~~APRIL 6, 2019~~

SECTION 1: PURPOSE AND AUTHORITY: The purpose of this Ordinance is to provide procedures and standards relating to the operation of medical marijuana establishments and to require their annual licensing. This ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A(14) and 22 M.R.S. § 2429-D.

SECTION 2: DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following terms have the following meanings.

Registered caregiver retail store. “Registered caregiver retail store” means a registered caregiver authorized under state law to cultivate medical marijuana for qualifying patients that operates a retail store to sell medical marijuana to qualifying patients.

Registered dispensary. “Registered dispensary” means a dispensary authorized under state law to cultivate and dispense medical marijuana to qualifying patients and caregivers.

~~*Marijuana testing facility.* “Marijuana testing facility” means a public or private laboratory authorized under state law to test medical marijuana for contamination, potency or cannabinoid profile.~~

~~*Marijuana Manufacturing facility.* “Marijuana Manufacturing facility” means a Marijuana Manufacturing facility authorized under state law to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use.~~

Cultivation area. “Cultivation area” means a Registered Caregiver’s indoor or outdoor area used for cultivation of marijuana for a qualifying patient that is enclosed and equipped with locks or other security devices that permits access only to a person authorized to have access to the area as defined in Title 22 Chapter 558-C of the Maine Revised Statutes.

Medical marijuana establishment. “Medical marijuana establishment” means a registered caregiver retail store, ~~marijuana testing facility, Marijuana Manufacturing facility,~~ or Cultivation area.

State registration authority. “State registration authority” means the authority created or designated by the State for the purpose of regulating and controlling registration for medical marijuana establishments.

Registered caregiver "Registered caregiver" means a caregiver who is registered by the Department of Administrative and Financial Services pursuant to section 2425-A.

Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, but does not include (1) An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or (2) An offense that consisted of conduct that would have been permitted under the Maine Medical Use of Marijuana Act.

SECTION 3: LICENSE REQUIRED: No person shall operate a medical marijuana establishment, nor shall any property owner permit the use of his or her premises to be operated as a medical marijuana establishment, without first obtaining a license from the ~~Board of Selectmen~~ Cumberland Town Council prior to commencing operations pursuant to this Ordinance.

- a. An applicant must complete a site plan review, and receive approval from the Planning ~~Board, Department~~ pursuant to the Town of ~~Turner-~~ Zoning Cumberland Site Plan Review Ordinance Section 5-Chapter 229
- b. Notwithstanding Section 3(a), if an applicant applies for a license, which will be located at a premises that has previously been through a site plan review, for the same type of medical marijuana establishment applicant is seeking to license the ~~Board of Selectmen~~ Planning Department may waive the site plan review requirement for the applicant.
- c. A license shall be for a period of one year from the date of its issuance.
- d. A license must be obtained prior to the opening of a medical marijuana establishment.
- e. Renewal of an existing license is governed by Section 9 of this Ordinance.
- f. Notwithstanding anything to the contrary within this Section a caregiver operating a preexisting Medical marijuana establishment in compliance with State law and Town Ordinances shall have ~~12-6 months~~ months from the date of enactment of this Ordinance to obtain a license pursuant to this Ordinance, and will not be subject to the requirements in Section 3(a) in order to obtain a license for said preexisting Medical marijuana establishment.

SECTION 4: APPLICATION: An applicant for a medical marijuana establishment license shall complete and file an application with the Code Enforcement Officer (CEO), or such other person designated by the Town Manager, on the provided form, and request to be placed on the ~~Board of Selectmen's~~ Town Council agenda no less than 30 days in advance of a regularly scheduled meeting, together with the applicable nonrefundable license fee, as well

as the following supporting materials:

- a. A copy of the applicant's state registration application and supporting documentation, as submitted to the state registration authority.
- b. Evidence of all state approvals or conditional approvals required to operate a medical marijuana establishment, including, but not limited to, a state registry identification card or registration certificate.
- c. If not included in the applicant's state registration application, a description of the form of ownership of the business enterprise together with attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the medical marijuana establishment.
- d. If not included in the applicant's state registration application, an affidavit that identifies all owners, officers, members, managers or partners of the applicant.
- e. A release for each applicant and for each officer, owner, member, manager or partner of the applicant seeking a license allowing the Town of Turner to obtain criminal records and other background information related to the individual.
- f. A statement as to the precise nature of the business with a description of the nature of all products and services offered to its customers.
- g. Evidence of all other approvals or conditional approvals required to operate the medical marijuana establishment, including Planning Board approval and any applicable food or victualer's license.
- h. Evidence of compliance with the requirements of Section 11 and evidence that the standards listed in Section 10 have been met.

If the ~~Board of Selectmen~~Town Council determines that a submitted application is not complete, they shall notify the applicant within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the Board of Selectmen's request, the application may be denied.

SECTION 5: INVESTIGATION OF APPLICANT, OFFICERS, ETC: Upon receipt of an application or of a notice of a change of any of the individuals listed in Section 4(d), the Town Clerk shall provide copies of the completed application to the CEO, or such other person designated by the Town Manager, for the purposes of reviewing the application and carrying out any necessary site review of the premises at which the establishment will be located.

- a. The CEO shall determine if an applicant's proposal could comply with all applicable town ordinances;

- b. The CEO may coordinate with any other Town employee, agent, or independent contractor to carry out any such inspection the CEO deems necessary to determine if applicant's proposal could be in compliance with Town Ordinances.
- c. The CEO shall have 21 days from the date a completed application is forwarded from the Board of Selectmen to complete a review of the applicant's premises and submit an affirmative, negative, or conditional report to the ~~Board of Selectmen~~ Town Council.

SECTION 6: ACTION ON APPLICATION:

- a. PUBLIC HEARING: Prior to granting a license, the ~~Board of Selectmen~~ Town Council shall hold a public hearing. Reasonable notice of the hearing shall be given by the Town Clerk to the applicant and shall be published at least once in a newspaper having a general circulation in the Town. At the public hearing, testimony of the applicant and of any interested person shall be heard.
- b. ISSUANCE OF LICENSES: After public hearing and within fifteen (15) days of said public hearing, the ~~Board of Selectmen~~ Town Council shall grant the license requested unless the issuance of the license would violate any prohibition in this Ordinance or any State law, Town Ordinance, Planning Board conditions of approval, or is otherwise contrary to the public health, safety or welfare. In granting a license, the ~~Board of Selectmen~~ Town Council may impose reasonable restrictions to protect property owners in the vicinity of the business premises from any nuisance aspects of the proposed Medical Marijuana Establishment including, without limitation, noise and hours of operation. The ~~Board of Selectman~~ Town Council may adopt the conditions of approval imposed by the Planning Board pursuant to their site plan review process as restrictions to of the applicant's premises by reference to said conditions. The applicant shall be informed in writing of the decision on the application and of the reasons for the decision.

SECTION 7: STATUS AND DISPLAY OF LICENSE: No license issued under this Ordinance may be assigned or transferred to another entity. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the premises for which they are issued and are not transferable to another location. The license shall be displayed in a conspicuous place in the medical marijuana establishment for which the license is issued. An application for a new license pursuant to this Section may be treated as a new application pursuant to Section 4 or a renewal pursuant to Section 9 at the discretion of the ~~Board of Selectmen~~ Town Council.

SECTION 8: DUTY TO UPDATE INFORMATION: Any license holder issued a license under this Ordinance shall have the duty to maintain updated and accurate information regarding all of the information provided pursuant to the application process and as required in Section 4 of this Ordinance within ten days of any change of status. Failure to provide and maintain current and accurate information may result in revocation of the applicant's license.

SECTION 9: RENEWALS: Applications for renewal of licenses shall be submitted at least sixty (60) days prior to expiration of the existing license. Any license holder that fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted. License renewal applications shall be processed by the Town Clerk who shall circulate the application among appropriate Town agencies for comment. The Manager shall forward the application to the Board of Selectmen with a summary of the agency comments. Renewals shall be approved or denied by the Board of Selectmen Town Council.

SECTION 10: STANDARDS FOR LICENSE DENIAL OR REVOCATION:

Renewals of existing licenses shall be denied by the Board of Selectmen Town Council, and an existing license may be suspended or revoked by the Board of Selectmen Town Council after notice and hearing, if the applicant, or any owner of the applicant or license holder:

- a. Fails to meet the requirements of this ordinance;
- b. Has had a license for a marijuana establishment revoked by a municipality or by the State;
- c. Has not acquired all necessary State and local approvals prior to issuance of the license;
- d. Has been convicted of a disqualifying drug offense; or
- e. Has provided false or misleading information in connection with the license application.

SECTION 11: OPERATING REQUIREMENTS: In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Board of Selectmen Town Council that the following requirements will be met. A license holder shall comply with all of these requirements during the term of the license.

- a. *Fixed location.* All licensed premises shall be fixed, permanent locations. License holders shall not be permitted to operate medical marijuana establishments in other than the licensed premises, such as at farmer's markets, farm stands or kiosks.
- b. *Security.*
 - i. The licensed premises shall have lockable doors and windows and shall be served by an alarm system.
 - ii. Additional security requirements for Registered caregiver retail store, Marijuana Manufacturing facility, and Marijuana testing facility.
 1. The Registered caregiver retail store, Marijuana Manufacturing facility, or Marijuana testing facility shall have video surveillance capable of covering the exterior and interior of the facility. The video surveillance system shall be operated with continuous recording twenty-four hours per day, seven days per week and video shall be retained for a minimum duration of thirty (30) days. Such

records shall be made available to law enforcement agencies when investigating a criminal complaint.

2. The Registered caregiver retail store, Marijuana Manufacturing facility, or Marijuana testing facility shall have exterior spot lights with motion sensors covering the full perimeter of the building(s), subject to other ordinances and the Board of Selectmen's discretion.

c. *Ventilation.*

- i. The licensed premises shall comply with all odor and air pollution standards established by statute or ordinance, or as a condition of approval by the Planning Board.
- ii. All medical marijuana establishments shall have an odor mitigation system installed that has been approved by a Maine licensed engineer, indicating that the system will provide odor control sufficient to ensure that no odors are perceptible off the premises.

- d. *Waste disposal.* The licensed premises shall not dispose of waste and/or residue from the growth, cultivation, processing, and storage of medical marijuana in an unsecured waste receptacle not in its possession and control.
- e. *Loitering.* The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It shall be the license holder's obligation to ensure that anyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a licensed premises is ordered to leave.
- f. *Compliance with requirements of state and local law.* A medical marijuana establishment shall meet all operating and other requirements of state and local law. To the extent the state has adopted or adopts in the future any law or regulation governing medical marijuana establishments that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

~~g. *Marijuana Manufacturing Facilities.* A Marijuana Manufacturing facility applicant must provide specific information about the extraction equipment to be used on the licensed premises, including how all fire and electrical standards will be met. Marijuana Manufacturing facility license holders shall not employ extraction methods that use fossil fuel based solvents, including but not limited to butane, hexane, and propane.~~

SECTION 12: VIOLATIONS; PENALTIES. In addition to revocation or suspension of a medical marijuana establishment license as provided in this Ordinance, the violation of any provision of this Ordinance may be punished, at the decision of the ~~Board of~~ Selectmen Town Council, by a fine of not less than \$500.00 nor more than \$2,500.00 for each offense. 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 attorney's fees, shall inure to the benefit

of the town. This section shall be enforced by the ~~Board of Selectman~~ Town Council, or their designee. Notice of violations by medical marijuana establishment license holders of other provisions of this Ordinance shall be provided to the ~~Board of Selectmen~~ Town Council.

SECTION 13: LICENSE FEE AND COSTS.

- a. The initial license fees for a Medical marijuana establishment shall be \$100.00. There shall be no renewal fee for an existing Medical marijuana establishment unless there has been a change in use resulting in initial application approval being required.
- b. Applicant shall be responsible for any costs incurred by the Town in the processing of an application, including but not limited to publication fees for any public hearing.
- c. The ~~Selectmen~~ Town Council shall have the authority to revise the annual license fees and renewal fees after holding a public hearing.

SECTION 14: SEVERABILITY. 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.

SECTION 15: APPEALS. Appeals may be taken to the Maine Superior Court in accordance with Rule 80-B, Maine Rules of Civil Procedure.

DRAFT- 7-01-21

TOWN OF CUMBERLAND TURNER, MAINE MEDICAL MARIJUANA ESTABLISHMENT LICENSE FOR REGISTERED CAREGIVERS ORDINANCE

ADOPTED TBD APRIL 6, 2019

SECTION 1: PURPOSE AND AUTHORITY: The purpose of this Ordinance is to provide procedures and standards relating to the operation of medical marijuana establishments and to require their annual licensing. This ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A(14) and 22 M.R.S. § 2429-D.

SECTION 2: DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following terms have the following meanings.

Registered caregiver retail store. “Registered caregiver retail store” means a registered caregiver authorized under state law to cultivate medical marijuana for qualifying patients that operates a retail store to sell medical marijuana to qualifying patients.

Registered dispensary. “Registered dispensary” means a dispensary authorized under state law to cultivate and dispense medical marijuana to qualifying patients and caregivers.

~~*Marijuana testing facility.* “Marijuana testing facility” means a public or private laboratory authorized under state law to test medical marijuana for contamination, potency or cannabinoid profile.~~

~~*Marijuana Manufacturing facility.* “Marijuana Manufacturing facility” means a Marijuana Manufacturing facility authorized under state law to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use.~~

Cultivation area. “Cultivation area” means a Registered Caregiver’s indoor or outdoor area used for cultivation of marijuana for a qualifying patient that is enclosed and equipped with locks or other security devices that permits access only to a person authorized to have access to the area as defined in Title 22 Chapter 558-C of the Maine Revised Statutes.

Medical marijuana establishment. “Medical marijuana establishment” means a registered caregiver retail store, ~~marijuana testing facility, Marijuana Manufacturing facility,~~ or Cultivation area.

State registration authority. “State registration authority” means the authority created or designated by the State for the purpose of regulating and controlling registration for medical marijuana establishments.

Registered caregiver "Registered caregiver" means a caregiver who is registered by the Department of Administrative and Financial Services pursuant to section 2425-A.

Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, but does not include (1) An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or (2) An offense that consisted of conduct that would have been permitted under the Maine Medical Use of Marijuana Act.

SECTION 3: LICENSE REQUIRED: No person shall operate a medical marijuana establishment, nor shall any property owner permit the use of his or her premises to be operated as a medical marijuana establishment, without first obtaining a license from the ~~Board of Selectmen~~ Cumberland Town Council prior to commencing operations pursuant to this Ordinance.

- a. An applicant must complete a site plan review, and receive approval from the Planning ~~Board, Department~~ pursuant to the Town of ~~Turner-~~ Zoning Cumberland Site Plan Review Ordinance Section 5-Chapter 229
- b. Notwithstanding Section 3(a), if an applicant applies for a license, which will be located at a premises that has previously been through a site plan review, for the same type of medical marijuana establishment applicant is seeking to license the ~~Board of Selectmen~~ Planning Department may waive the site plan review requirement for the applicant.
- c. A license shall be for a period of one year from the date of its issuance.
- d. A license must be obtained prior to the opening of a medical marijuana establishment.
- e. Renewal of an existing license is governed by Section 9 of this Ordinance.
- f. Notwithstanding anything to the contrary within this Section a caregiver operating a preexisting Medical marijuana establishment in compliance with State law and Town Ordinances shall have ~~12-6 months~~ months from the date of enactment of this Ordinance to obtain a license pursuant to this Ordinance, and will not be subject to the requirements in Section 3(a) in order to obtain a license for said preexisting Medical marijuana establishment.

SECTION 4: APPLICATION: An applicant for a medical marijuana establishment license shall complete and file an application with the Code Enforcement Officer (CEO), or such other person designated by the Town Manager, on the provided form, and request to be placed on the ~~Board of Selectmen's~~ Town Council agenda no less than 30 days in advance of a regularly scheduled meeting, together with the applicable nonrefundable license fee, as well

as the following supporting materials:

- a. A copy of the applicant's state registration application and supporting documentation, as submitted to the state registration authority.
- b. Evidence of all state approvals or conditional approvals required to operate a medical marijuana establishment, including, but not limited to, a state registry identification card or registration certificate.
- c. If not included in the applicant's state registration application, a description of the form of ownership of the business enterprise together with attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the medical marijuana establishment.
- d. If not included in the applicant's state registration application, an affidavit that identifies all owners, officers, members, managers or partners of the applicant.
- e. A release for each applicant and for each officer, owner, member, manager or partner of the applicant seeking a license allowing the Town of Turner to obtain criminal records and other background information related to the individual.
- f. A statement as to the precise nature of the business with a description of the nature of all products and services offered to its customers.
- g. Evidence of all other approvals or conditional approvals required to operate the medical marijuana establishment, including Planning Board approval and any applicable food or victualer's license.
- h. Evidence of compliance with the requirements of Section 11 and evidence that the standards listed in Section 10 have been met.

If the ~~Board of Selectmen~~Town Council determines that a submitted application is not complete, they shall notify the applicant within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the Board of Selectmen's request, the application may be denied.

SECTION 5: INVESTIGATION OF APPLICANT, OFFICERS, ETC: Upon receipt of an application or of a notice of a change of any of the individuals listed in Section 4(d), the Town Clerk shall provide copies of the completed application to the CEO, or such other person designated by the Town Manager, for the purposes of reviewing the application and carrying out any necessary site review of the premises at which the establishment will be located.

- a. The CEO shall determine if an applicant's proposal could comply with all applicable town ordinances;

- b. The CEO may coordinate with any other Town employee, agent, or independent contractor to carry out any such inspection the CEO deems necessary to determine if applicant's proposal could be in compliance with Town Ordinances.
- c. The CEO shall have 21 days from the date a completed application is forwarded from the Board of Selectmen to complete a review of the applicant's premises and submit an affirmative, negative, or conditional report to the ~~Board of~~ SelectmenTown Council.

SECTION 6: ACTION ON APPLICATION:

- a. PUBLIC HEARING: Prior to granting a license, the ~~Board of SelectmenTown~~ Council shall hold a public hearing. Reasonable notice of the hearing shall be given by the Town Clerk to the applicant and shall be published at least once in a newspaper having a general circulation in the Town. At the public hearing, testimony of the applicant and of any interested person shall be heard.
- b. ISSUANCE OF LICENSES: After public hearing and within fifteen (15) days of said public hearing, the ~~Board of SelectmenTown Council~~ shall grant the license requested unless the issuance of the license would violate any prohibition in this Ordinance or any State law, Town Ordinance, Planning Board conditions of approval, or is otherwise contrary to the public health, safety or welfare. In granting a license, the ~~Board of SelectmenTown Council~~ may impose reasonable restrictions to protect property owners in the vicinity of the business premises from any nuisance aspects of the proposed Medical Marijuana Establishment including, without limitation, noise and hours of operation. The ~~Board of~~ SelectmanTown Council may adopt the conditions of approval imposed by the Planning Board pursuant to their site plan review process as restrictions to of the applicant's premises by reference to said conditions. The applicant shall be informed in writing of the decision on the application and of the reasons for the decision.

SECTION 7: STATUS AND DISPLAY OF LICENSE: No license issued under this Ordinance may be assigned or transferred to another entity. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the premises for which they are issued and are not transferable to another location. The license shall be displayed in a conspicuous place in the medical marijuana establishment for which the license is issued. An application for a new license pursuant to this Section may be treated as a new application pursuant to Section 4 or a renewal pursuant to Section 9 at the discretion of the ~~Board of~~ SelectmenTown Council.

SECTION 8: DUTY TO UPDATE INFORMATION: Any license holder issued a license under this Ordinance shall have the duty to maintain updated and accurate information regarding all of the information provided pursuant to the application process and as required in Section 4 of this Ordinance within ten days of any change of status. Failure to provide and maintain current and accurate information may result in revocation of the applicant's license.

SECTION 9: RENEWALS: Applications for renewal of licenses shall be submitted at least sixty (60) days prior to expiration of the existing license. Any license holder that fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted. License renewal applications shall be processed by the Town Clerk who shall circulate the application among appropriate Town agencies for comment. The Manager shall forward the application to the Board of Selectmen with a summary of the agency comments. Renewals shall be approved or denied by the Board of Selectmen Town Council.

SECTION 10: STANDARDS FOR LICENSE DENIAL OR REVOCATION:

Renewals of existing licenses shall be denied by the Board of Selectmen Town Council, and an existing license may be suspended or revoked by the Board of Selectmen Town Council after notice and hearing, if the applicant, or any owner of the applicant or license holder:

- a. Fails to meet the requirements of this ordinance;
- b. Has had a license for a marijuana establishment revoked by a municipality or by the State;
- c. Has not acquired all necessary State and local approvals prior to issuance of the license;
- d. Has been convicted of a disqualifying drug offense; or
- e. Has provided false or misleading information in connection with the license application.

SECTION 11: OPERATING REQUIREMENTS: In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Board of Selectmen Town Council that the following requirements will be met. A license holder shall comply with all of these requirements during the term of the license.

- a. *Fixed location.* All licensed premises shall be fixed, permanent locations. License holders shall not be permitted to operate medical marijuana establishments in other than the licensed premises, such as at farmer's markets, farm stands or kiosks.
- b. *Security.*
 - i. The licensed premises shall have lockable doors and windows and shall be served by an alarm system.
 - ii. Additional security requirements for Registered caregiver retail store, Marijuana Manufacturing facility, and Marijuana testing facility.
 1. The Registered caregiver retail store, Marijuana Manufacturing facility, or Marijuana testing facility shall have video surveillance capable of covering the exterior and interior of the facility. The video surveillance system shall be operated with continuous recording twenty-four hours per day, seven days per week and video shall be retained for a minimum duration of thirty (30) days. Such

records shall be made available to law enforcement agencies when investigating a criminal complaint.

2. The Registered caregiver retail store, Marijuana Manufacturing facility, or Marijuana testing facility shall have exterior spot lights with motion sensors covering the full perimeter of the building(s), subject to other ordinances and the Board of Selectmen's discretion.

c. *Ventilation.*

- i. The licensed premises shall comply with all odor and air pollution standards established by statute or ordinance, or as a condition of approval by the Planning Board.
- ii. All medical marijuana establishments shall have an odor mitigation system installed that has been approved by a Maine licensed engineer, indicating that the system will provide odor control sufficient to ensure that no odors are perceptible off the premises.

- d. *Waste disposal.* The licensed premises shall not dispose of waste and/or residue from the growth, cultivation, processing, and storage of medical marijuana in an unsecured waste receptacle not in its possession and control.
- e. *Loitering.* The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It shall be the license holder's obligation to ensure that anyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a licensed premises is ordered to leave.
- f. *Compliance with requirements of state and local law.* A medical marijuana establishment shall meet all operating and other requirements of state and local law. To the extent the state has adopted or adopts in the future any law or regulation governing medical marijuana establishments that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

~~g. *Marijuana Manufacturing Facilities.* A Marijuana Manufacturing facility applicant must provide specific information about the extraction equipment to be used on the licensed premises, including how all fire and electrical standards will be met. Marijuana Manufacturing facility license holders shall not employ extraction methods that use fossil fuel based solvents, including but not limited to butane, hexane, and propane.~~

SECTION 12: VIOLATIONS; PENALTIES. In addition to revocation or suspension of a medical marijuana establishment license as provided in this Ordinance, the violation of any provision of this Ordinance may be punished, at the decision of the ~~Board of~~ Selectmen Town Council, by a fine of not less than \$500.00 nor more than \$2,500.00 for each offense. 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 attorney's fees, shall inure to the benefit

of the town. This section shall be enforced by the ~~Board of Selectman~~ Town Council, or their designee. Notice of violations by medical marijuana establishment license holders of other provisions of this Ordinance shall be provided to the ~~Board of Selectmen~~ Town Council.

SECTION 13: LICENSE FEE AND COSTS.

- a. The initial license fees for a Medical marijuana establishment shall be \$100.00. There shall be no renewal fee for an existing Medical marijuana establishment unless there has been a change in use resulting in initial application approval being required.
- b. Applicant shall be responsible for any costs incurred by the Town in the processing of an application, including but not limited to publication fees for any public hearing.
- c. The ~~Selectmen~~ Town Council shall have the authority to revise the annual license fees and renewal fees after holding a public hearing.

SECTION 14: SEVERABILITY. 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.

SECTION 15: APPEALS. Appeals may be taken to the Maine Superior Court in accordance with Rule 80-B, Maine Rules of Civil Procedure.

Town of Cumberland

Medical Marijuana Caregiver Licensing Ordinance

Adopted: _____

Section 1 - Title This ordinance shall be known as and cited as the "Town of Cumberland ~~Gorham Adult Use and~~ Medical Marijuana Cargiver Licensing Ordinance" and will be referred to hereinafter as the " Ordinance." This Ordinance limits all ~~subject adult-use marijuana establishments and~~ medical marijuana caregiver businesses, as ~~both are~~ defined herein, to the zoning districts specified under the GorhamCumberland Zoning Ordinance, prescribes definitions and provides for permitting/licensing, regulation, and performance standards for such uses.

Section 2 - Authority and Applicability This Ordinance is adopted pursuant to the authority granted by 22 M.R.S.A. § 2429-D, 28-B M.R.S.A. § 101 et seq., as both may be amended or recodified, and the Town's home rule authority under Chapter VIII, Part 2 Section 1 of the Maine Constitution and 30-A M.R.S.A. § 3001, as may be amended or recodified.

Section 3 - Purpose; Construction The purpose of this Ordinance is to allow for the licensed operation of adult-use marijuana cultivation facilities, adult-use marijuana manufacturing facilities, adult-use marijuana testing facilities, ???? medical marijuana caregivers, ~~medical marijuana manufacturing facilities, and medical marijuana testing facilities in~~ GorhamCumberland, while ensuring that the same are operated safely and in accordance with state law. This Ordinance does not authorize the operation of adult-use marijuana stores as that term is defined in 28-B M.R.S.A. § 102(34), as may be amended or recodified. ~~In addition, this Ordinance does not authorize the operation of medical marijuana caregiver retail stores or medical marijuana dispensaries, as those terms are defined in 22 M.R.S.A. §§ 2422(1-F) and 2422(6) respectively, as may be amended or recodified. The operation of a medical marijuana caregiver within his/her primary residence, or in the primary residence of one or all of its officers or managers, is exempt from the licensing requirements of this Ordinance, but is still subject to the home occupation standards set forth in Section 2-15 of the Town of~~ GorhamCumberland Land Use and Development Code. This Ordinance does not, and shall not be interpreted to limit the rights and privileges afforded by the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C.

Section 4 - 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.

Section 5 - 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.

Section 6 - Effective Date The effective date of this Ordinance shall be thirty (30) days from the date of adoption by the Town Council.

Section 7 - Definitions **Adult-use marijuana cultivation facility** - an adult-use "cultivation facility," as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended or recodified. An adult-use marijuana cultivation facility includes a "nursery cultivation facility," as that term is defined in 28-B M.R.S.A. § 301(5), as may be amended or recodified. **Adult-use marijuana establishment** - an adult-use marijuana cultivation facility, an adult-use marijuana products manufacturing facility, or an adult-use marijuana testing facility, which uses are only allowed to operate in GorhamCumberland once properly licensed by the State of Maine and under the applicable sections of this Ordinance. **Adult-use marijuana products manufacturing facility** - an adult-use "products manufacturing facility," as that term is defined in 28-B M.R.S.A. § 102(43), as may be amended or recodified. **Adult-use marijuana testing facility** - an adult-use "testing facility," as that term is defined in 28-B M.R.S.A. § 102(54), as may be amended or recodified. **Agricultural Building** - a structure designed, constructed, and used to store farm machinery, supplies, implements, livestock, or crops. **Cultivate or cultivation** - the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale of adult-use or medical marijuana. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction. **Manufacture, processing** - "manufacture," as that term is defined in 28-B M.R.S.A. § 102(26), as may be amended or recodified. **Manufacturing batch** - "batch," as that term is defined in 28-B M.R.S.A. § 102(5), as may be amended or recodified. **Marijuana** - "marijuana," as that term is defined in 28-B M.R.S.A. § 102(27), as may be amended or recodified. **Medical Marijuana Caregiver** - a "caregiver," as that term is defined in 22 M.R.S.A. § 2422(8-A), as may be amended or recodified. **Medical Marijuana Business** - a medical marijuana manufacturing facility, a medical marijuana testing facility, or a medical marijuana caregiver that operates in a location that is not that 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 marijuana business does not include or encompass a medical marijuana caregiver store or a medical marijuana dispensary, neither of which are authorized to operate in the GorhamCumberland. **Medical Marijuana Manufacturing Facility** - a medical marijuana "manufacturing facility," as that term is defined in 22 M.R.S. § 2422(4-R), and further specified in 22 M.R.S. § 2423-F, as both may be amended or recodified. **Medical Marijuana Testing Facility** - a medical "marijuana testing facility," as that term is defined in 22 M.R.S. § 2422(5-C), as may be amended or recodified. **Plant canopy** - "plant canopy," as that term is defined in 28-B M.R.S.A. § 102(41), as may be amended or recodified.

Section 8 - Annual License required; distribution of licenses; renewal

A. License Required. No person may establish, operate or maintain an adult-use marijuana establishment or a medical marijuana business without first obtaining an annual license from the Town Council. It is a violation of this Ordinance for any person or entity to operate, or cause to be operated, an adult-use marijuana establishment or a medical marijuana business without a valid license issued by the Town Council, pursuant to this Ordinance. Pursuant to 28-B M.R.S.A. §301 and §502, an applicant seeking to operate an adult-use marijuana establishment may submit an application for a license concurrent with an application for a conditional license by the State of Maine to operate a marijuana cultivation or manufacturing facility.

B. Limit on Number of Licenses; Licenses Not Transferable. The Town Council may only issue one (1) total adult-use marijuana establishment to a single business, individual, or owner. For the purposes of this restriction, a "business" or "owner" shall include a separate business entity where the majority of ownership interests are held by the same individual(s) or entity/entities. The Town Council is authorized to issue no more than ~~twenty (20) adult-use~~ 5 medical marijuana caregiver establishment licenses in accordance with this Ordinance and where allowed in the Land Use and Development Code. Licenses issued pursuant to this Ordinance 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 an adult-use marijuana establishment or medical marijuana business 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. ~~Adult-use Medical~~ marijuana caregiver establishment licenses shall be administered on a first come, first serve basis based upon the date the application is deemed complete. Home cultivation of adult use or medical marijuana for personal use is exempt from the licensing requirements of this Ordinance.

Section 9 - Application procedure

A. An application for a license required by this Ordinance must be made on a form provided by the Town of ~~Gorham~~ Cumberland.

B. Applications for a license required by this Ordinance shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and if referred to the municipal officers shall bear the recommendation for approval or disapproval with reasons noted of the Code Enforcement Officer, the Police Chief and the Fire Chief, and such other departments as may be required by the Municipal Officers or other Town ordinances.

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

D. Application Requirements

1. If the applicant is a single individual, this person must sign the application for a license. If the applicant is a business entity, 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 an adult-use marijuana establishment or medical 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 adult-use marijuana establishment or medical marijuana business under a name other than that of the applicant, they must state the establishment or 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 marijuana-related license applications in another town, city or state denied, suspended or revoked, they must list the name and location of the facility 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 Cultivation or Manufacturing Facility 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 marijuana-related 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 adult-use marijuana establishment, or medical marijuana business for which the applicant is seeking a license.

j. The location of the proposed adult-use marijuana establishment or medical 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 adult-use marijuana establishment or medical 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 floor space 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 of Cumberland ~~Gorham~~ Tax Map depicting: (1) the subject property lines, and (2) the property lines of any preexisting public or private school within seven hundred and fifty (750) feet of the subject property, measured in accordance with this Ordinance. 3. Medical marijuana caregivers and other applicants submitting applications and supporting information that is confidential under 22 M.R.S.A. § 2425-A(12), as may be amended or recodified, and the Maine Freedom of Access Act, 1 M.R.S.A. § 403(3)(F), shall mark such information as confidential. An individual who possesses a valid Maine medical marijuana registered caregiver identification card need not identify themselves in an application for a license for a medical marijuana business. The cardholder must, however, identify themselves and provide the relevant cards to the Town Clerk for examination, but the identity of the cardholder shall not be a public record and the Town shall not share the identity of the cardholder, except as necessary by law in the performance of the Town's official functions. At the time of the application, the cardholder may appoint a representative to appear before the Town Council on their behalf. Advertisements for the requisite public hearing shall contain the location of the proposed medical marijuana business and the identity of the owner of the real estate and the identity of the designated representative.

Section 10 - Standards for license General

1. All adult-use marijuana establishments and medical marijuana businesses shall comply with applicable state and local laws and regulations.

2. Adult-use marijuana establishments and medical marijuana businesses shall only be located within the zoning districts permitted in the ~~Gorham~~Cumberland Zoning Ordinance.

3. Adult-use marijuana establishments and medical marijuana businesses may not be located on property within seven hundred and fifty (750) feet of the property line of a preexisting public or private school (K12). For the purposes of this Ordinance, "school" includes a public school, private school, or public preschool program as defined in 20-A M.R.S.A. §1, or any other educational facility that serves children from prekindergarten to grade 12. 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 adult-use marijuana establishment or medical marijuana business is located. If the adult-use marijuana establishment or medical marijuana business is located within a subdivision, the required setback shall be measured from the front door of the facility 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. No outdoor cultivation, testing, or manufacturing or storage of marijuana, marijuana products, or related supplies is permitted, except as allowed by ordinance.

5. All adult-use marijuana establishments and medical marijuana businesses are required to operate in compliance with the state standards related to odor control and mitigation, as outlined in 18-691 C.M.R., ch. 1, § 2.4.2, as may be amended or recodified, and all adult-use marijuana establishments and medical marijuana businesses shall have odor mitigation systems such that odor is imperceptible from any adjoining property line.. A ventilation plan shall be required that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or manufacturing of marijuana or marijuana related products from being dispersed or released outside the building or lease line. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its manufacturing or cultivation to be effectively confined to the any building or lease line.

6. All adult-use marijuana establishments shall obtain a State of Maine conditional license prior to operating in the Town of ~~Gorham~~Cumberland. All caregivers or other individuals or entities wishing to operate medical marijuana businesses must be licensed by the State of Maine prior to applying for licensure from the Town of Cumberland ~~Gorham~~, and must provide a copy of said license to the Town as part of its licensing application.

7. Operating Plan - All Adult-use marijuana establishments and medical marijuana businesses are required to submit an operation plan that at a minimum addresses the following: a. wastewater b. disposal of waste c. ventilation and odor d. parking e. landscaping

Section 11 - License expiration and renewal A separate license must be obtained for each adult-use marijuana establishment or medical marijuana business located on the same premises. Each license shall be effective for a period of one year from the date of its issuance. A

license must be obtained prior to the opening of adult-use marijuana establishment or medical marijuana business. Applications for renewal licenses shall be submitted at least sixty (60) days prior to expiration of the existing term. Any licensee that fails to submit a renewal application by the applicable deadline shall not have authority to operate until a new license is granted.

Section 12 - Denial, suspension or revocation of license. An application for any license under this Ordinance shall be denied to the following entities or persons:

1. A person or entity who fails to meet the requirements of this Ordinance.
2. A person or entity that has had a license for an adult-use marijuana establishment or a medical marijuana business revoked by the Town of ~~Gorham~~Cumberland or by the State of Maine.
3. A person or entity who has not acquired all necessary state approvals and other required local approvals prior to issuance of a license. The Town may suspend or revoke a license for any violation of this Ordinance, Chapter 1 or Chapter 2 of the Land Use and Development Code, or any other applicable building and life safety code requirements. The Town may suspend or revoke a license if the licensee has had a state license for an adult-use marijuana establishment suspended or revoked, or in the case of a medical marijuana business, the applicant has been disqualified as a caregiver, or otherwise had a needed license suspended or revoked by the State of Maine. The licensee shall be entitled to notice and a hearing before the Town Council prior to any suspension or revocation, provided, however, that any such hearing, including all documents related thereto, pertaining to a licensed medical marijuana caregiver business, shall be confidential and conducted in executive session.

Section 13 - Right of Access/Background Check/Inspection

- A. Every adult-use marijuana establishment and medical marijuana business licensee shall allow law enforcement officers and the ~~Gorham~~Cumberland 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.
- B. Every owner and employee of an adult-use marijuana establishment, medical marijuana manufacturing facility, or medical marijuana testing facility, applying for a license, shall contact the ~~Gorham~~Cumberland Police Department for the purposes of fingerprinting and criminal background checking.
- C. All medical marijuana caregivers shall provide to the Town a copy of all registered caregiver licenses issued to any and all officers, managers, and/or employees, and shall update the same annually.
- D. All licensees shall submit emergency contact information to the Police Department. E. Due to fire, explosion, and other hazards inherent in adult-use marijuana establishments and medical marijuana caregiver businesses, including, but not limited to, heavy electrical loads, hot lighting

fixtures, CO2 enrichment, and flammable contents, the owners and/or operators of all such facilities shall agree to be inspected annually by the ~~Gorham~~Cumberland Fire Department and have a Lock Box installed at the structure's exterior entrance for emergency access. Lock Boxes shall be obtained and installed in coordination with the ~~Gorham~~Cumberland Fire Department.

Section 14 - 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 adult-use marijuana establishment or medical 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 an adult-use marijuana establishment or medical marijuana business licensed under this Ordinance.

Section 15 - State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the adult-use marijuana businesses, medical marijuana businesses, or medical marijuana caregivers, the additional or stricter regulation shall control. Compliance with all applicable State laws and regulations 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.

Section 16 - Advertisement and Public Hearing

A. For new or renewal licenses requiring Town Council action, the Council shall hold a public hearing. At said hearing the Town Council shall determine whether the license applicant has satisfied all applicable licensing criteria as outlined in this Ordinance, and if so, shall authorize the issuance of such a license, with or without conditions.

B. Prior to any public hearing held in accordance with this Ordinance, the application shall be advertised by posting notice in two (2) or more public places and advertising in a local newspaper, at least seven (7) days prior to the public hearing.

C. In the case of an application for license by a medical marijuana caregiver, or any renewal thereof, the notice and public hearing shall be subject to the confidentiality provisions of Section 9

(D)(3) of this Ordinance, if applicable. Section 17 - License Fees Licensing fees for adult-use marijuana establishments and medical marijuana businesses shall be paid annually as set forth

below. All applications must be submitted with a nonrefundable/nontransferable \$500 fee. If an application is approved, the following license fees must be paid before the Town will issue a license:

Adult-Use Marijuana Manufacturing Facility: \$5,000

Adult-Use Marijuana Cultivation Facility:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: \$1,000.

Tier 2: 501 to 2,000 SF of mature plant canopy: Annual License Fee: \$1,500.

Tier 3: 2,001 to 7,000 SF of mature plant canopy: Annual License Fee: \$2,500.

Tier 4: greater than 7,000 SF of mature plant canopy: Annual License Fee: \$5,000.

Adult-Use Nursery Cultivation facility: Annual License Fee: \$1,000 (Plant canopies of individual Nursery Cultivations are capped at 1,000 SF, subject to the requirements and restrictions of State law.) Adult-Use Marijuana Testing Facility: Annual License Fee: \$3,000.

Medical Marijuana Caregiver (Non-Home Occupation): Annual License Fee:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: \$1,000.

Tier 2: 501 to 2,000 SF of mature plant canopy: Annual License Fee: \$1,500.

Tier 3: 2,001 to 7,000 SF of mature plant canopy: Annual License Fee: \$2,500.

_____Tier 4: greater than 7,000 SF of mature plant canopy: Annual License Fee: \$5,000.

Medical Marijuana Manufacturing Facility: Annual License Fee: \$5,000.

Medical Marijuana Testing Facility: Annual License Fee: \$3,000. 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 and State law. Section 18 - Enforcement; Violations Any violations of this ordinance, 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 adult-use marijuana establishment or medical marijuana business without a town license 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, 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.

Section 19 - Appeals Any appeal of a decision of the Town made in connection with this Ordinance shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure