

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

TYPE OF MEETING: REMOTE  
PLACE: ZOOM ONLINE MEETING

DATE: Tuesday, June 23, 2020  
TIME: 7:00 P.M.

*PLEASE NOTE: IT IS THE POLICY OF THE PLANNING BOARD THAT THE APPLICANT OR AN AGENT OF THE APPLICANT MUST BE PRESENT IN ORDER FOR REVIEW OF THE APPLICATION TO TAKE PLACE.*

- 1) ROLL CALL
- 2) PLEDGE OF ALLEGIANCE
- 3) MOMENT OF SILENCE
- 4) 10-MINUTE PUBLIC INPUT SESSION
- 5) REVIEW AND APPROVE MINUTES
  - a) June 16, 2020 - if available
- 6) NOTICE OF DECISION
  - a) 0 Harold L Dow Highway (Map 29 / Lot 31) PB19-23 – if available
- 7) OLD BUSINESS
- 8) NEW BUSINESS
  - a) Discuss Chapter 11 and 33-190
  - b) Review proposed ordinance amendments for November.
- 9) CORRESPONDENCE
- 10) SET AGENDA AND DATE FOR NEXT MEETING
  - a) July 7, 2020
- 11) ADJOURN

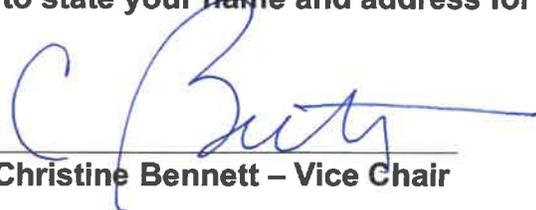
POSTED  
6/17/20

**To view a live remote meeting: (Instructions can also be found on the Planning Board webpage)**

- a) Go to [www.eliotme.org](http://www.eliotme.org)
- b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 7:00 (Please note: streaming a remote meeting can be delayed up to a minute)

**Instructions to join remote meeting:**

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call **1-646-558-8656**
  1. When prompted enter meeting number: **992 0819 9769 #**
  2. When prompted to enter Attendee ID **press #**
  3. When prompted enter meeting password: **203409 #**
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.
- d) Press \*9 to raise your virtual hand to speak

  
Christine Bennett – Vice Chair

Signing on behalf of Denny Lentz

Sec. 33-190. - Performance standards for marijuana establishments.

Notwithstanding anything to the contrary of 1 M.R.S.A. § 302 or any other law, to any application relating to the establishment or operation of a proposed marijuana establishment, whether or not such application had become "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this section.

All marijuana establishments require site plan review and approval from the planning board prior to the issuance of any building permit or certificate of occupancy. The following performance standards are to be used by the planning board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

Reference chapter 11-3 for definitions related to this section.

- (1) All marijuana establishments shall be screened in accordance with section 33-175.
- (2) All marijuana establishments shall comply with the parking requirements of section 45-495(15).
- (3) Signage and advertising. All signage and advertising for any marijuana establishment shall comply with all applicable provisions of chapter 45 in this Code. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana. No interior signage, advertising as described above shall be visible from the exterior of the building in which the marijuana establishment is located. Signage containing misleading or deceptive marketing or marketing towards individuals under the age of 21 is prohibited.
- (4) Area of activities for all marijuana establishments; control of odors and emissions; sealed walls; disposal plan; security.
  - a. All activities of marijuana including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to, storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.
  - b. Odor management. For all marijuana establishments odor of marijuana must not be perceptible at the exterior of the building at the premises or at any adjoining use of the property. Marijuana stores, marijuana product manufacturing facilities, and marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the town does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.
  - c. Noxious gases and fumes. Marijuana product manufacturing facilities and marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
  - d. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment must be provided at all times.
  - e. All marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard marijuana products must have a metal cover or lid that is locked at all times. Security cameras must be installed to record activities in the area of such trash receptacles.

- f. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:
1. Security surveillance cameras installed and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
  2. Door and window intrusion robbery and burglary alarm systems with audible and police department notification components that are professionally monitored and maintained in good working condition;
  3. A locking safe permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;
  4. Exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of this Code; and
  5. Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least 72 hours. All marijuana establishments shall provide the police chief or their designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the town may provide notice of any operating problems associated with the establishment.

- (5) Separation from sensitive uses.
- a. No marijuana store structure shall be sited within 500 feet of the lot lines of a public or private school; and
  - b. No marijuana store structure shall be sited within 500 feet of the lot lines of any public facility, places of worship, residential property, or childcare facility.

The planning department will not preclude a sensitive use listed in a. and b. above from opening at a location within the applicable buffer zones.

A marijuana store may continue to operate in its present location as a pre-existing use if a sensitive use as listed in a. and b. above later locates within the applicable buffer zone; however, the marijuana store does so at its own risk, and town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, near a sensitive use listed in a. and b. above.

- (6) Hours of operation. Marijuana stores are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products in accordance with chapter 6 section 11 or as may be set forth in state statute. When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.
- (7) Size limitation. The plant canopy of a marijuana cultivation facility shall not exceed their state issued tier permit.
- (8) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment except in compliance with all operating and other requirements of state, local law and regulation, and compliance with this Code including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (9) Drive-through and home delivery. Marijuana establishments are prohibited from having drive-through pick-up facilities. Marijuana stores are prohibited from providing home delivery services.

Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.

- (10) Pesticides. The only pesticides allowed to be used in marijuana establishments are non-synthetic substances, unless specifically listed as "prohibited" on the national list, and pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time. All marijuana establishments shall comply with all packaging and labeling requirements from the state.
- (11) Inspections. The code enforcement officer or their designee will inspect all marijuana establishments prior to issuance of a certificate of occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this section, local and state building codes and electrical codes. The fire chief or their designee will inspect all marijuana establishments prior to issuance of a certificate of occupancy, to verify that the facilities are constructed and can be operated in accordance with the requirements of all applicable state and local fire codes. The initial inspection shall occur after the establishment is ready for operation, but no marijuana, marijuana products will be permitted on the premises until the inspection is complete and a certificate of occupancy is issued. Nothing herein shall prevent the fire chief or their designee from inspecting marijuana establishments at random intervals, but not to exceed four times a year, and without advance notice provided that the inspection is during normal business hours of the establishment.
- (12) Change of use/addition of use. If any type of marijuana establishment to change to another type of establishment or to add another type of marijuana establishment to its existing operations, such change of use or additional use must be reviewed and approved by the planning board for compliance with this section.
- (13) Other laws remain applicable. A marijuana establishment shall meet all operating, local and state licensing and other requirements of state and local laws and regulations. To the extent the state has adopted or adopts in the future any stricter law or regulation governing adult use marijuana and/or marijuana establishments, the stricter law or regulation shall control.

(T.M. of 11-5-2019(4))

## Chapter 11 - MARIJUANA ESTABLISHMENTS

### Sec. 11-1. - Purpose.

The purpose of this article is to provide for and regulate the issuance of local licenses for adult use marijuana establishments as defined in this article and by the state under the Marijuana Legalization Act, 28-B M.R.S.A. ch. 1, as may be amended.

(T.M. of 11-5-2019(2))

### Sec. 11-2. - Authority.

This article is adopted pursuant to the authority granted by 28-B M.R.S.A. § 401 et seq., as may be amended, and 22 M.R.S.A. § 2421 et seq., as may be amended.

(T.M. of 11-5-2019(2))

### Sec. 11-3. - Definitions.

As used in this article, the following words and phrases shall have the meanings ascribed to them in this section and section 33-190 of this Code.

*Adult use marijuana* shall mean "adult use marijuana" as that term is defined in 28-B M.R.S.A. § 102(1), as may be amended.

*Adult use marijuana product* shall mean "adult use marijuana product" as that term is defined in 28-B M.R.S.A. § 102(2), as may be amended.

*Applicant* shall mean a person that has submitted an application for licensure as a marijuana establishment pursuant to this article.

*Cultivate or cultivation* shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. It does not include manufacturing.

*Harvested marijuana* shall mean "harvested marijuana" as that term is defined in 22 M.R.S.A. § 2422(3-C), as may be amended.

*Immature plant* shall mean "immature marijuana plant" as a marijuana plant that is not a mature marijuana plant or a seedling.

*Licensed premises* shall mean the premises specified in an application for a state or local license pursuant to this article that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana, or adult use marijuana products in accordance with the provisions of this article and the requirements of state law and regulations.

*Licensee* shall mean a person licensed pursuant to this article or, in the case of a holder of an occupational license, a natural person licensed pursuant to this article.

*Local marijuana license* shall mean any license required by and issued under the provisions of this article.

*Local licensing authority* shall mean the select board as further specified in the provisions of this article.

*Manufacture or manufacturing of marijuana* shall mean the production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. It does not include cultivation.

*Marijuana* shall mean the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but shall not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and further, shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant which is incapable of germination and as that term is defined in 28-B M.R.S.A. § 102(27), as may be amended.

*Marijuana concentrate* shall mean the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of *marijuana concentrate* in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

*Marijuana cultivation facility* shall mean a "cultivation facility" as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended. A *marijuana cultivation facility* is an entity licensed to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to marijuana establishments.

*Marijuana establishment* shall mean a "marijuana establishment" as that term is defined in 28-B M.R.S.A. § 102(29), as may be amended. A *marijuana establishment* is a marijuana store, a marijuana cultivation facility, a marijuana products manufacturing facility, or a marijuana testing facility or a marijuana social club.

*Marijuana products manufacturing facility* shall mean a "products manufacturing facility" as that term is defined in 28-B M.R.S.A. § 102(4243), as may be amended. A *marijuana products manufacturing facility* is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a marijuana cultivation facility only to other *marijuana products manufacturing facilities*, or marijuana stores and marijuana social clubs.

*Marijuana social club* shall mean a "marijuana social club" as that term is defined in 28-B M.R.S.A. § 102(33), as may be amended. A *marijuana social club* is an entity licensed to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana products to consumers for consumption on the licensed premises. *Marijuana social clubs* are prohibited within the town.

*Marijuana store* shall mean a "marijuana store" as that term is defined in 28-B M.R.S.A. § 102(34), as may be amended. A *marijuana store* is an entity licensed to purchase adult use marijuana from a marijuana cultivation facility and to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana and adult use marijuana products to consumers.

*Marijuana testing facility* shall mean a "testing facility" as that term is defined in 28-B M.R.S.A. § 102(5354), as may be amended. A *marijuana testing facility* is a facility licensed to develop, research and test marijuana, marijuana products and other substances.

*Mature marijuana plant* shall mean a marijuana plant that is flowering.

*Owner* shall mean a person whose beneficial interest in a marijuana establishment is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a marijuana establishment and has a controlling interest in a marijuana establishment.

*Plant canopy* shall mean the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by defined boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed cultivation facility that are used to cultivate immature marijuana plants and seedlings and that are not used at any time to cultivate mature marijuana plants.

*Person* shall mean a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. *Person* does not include any governmental organization.

*Public facility* shall mean any facility, including, but not limited to, buildings, property, and recreation areas which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

*Seedling* shall mean a marijuana plant that is: (1) not flowering; (2) less than six inches in height; and (3) less than six inches in width.

*State license* shall mean any license, registration or certification issued by the state licensing authority.

*State licensing application* shall mean the application form and supporting materials required by the state for the purpose of a person obtaining a state license, registration or certification for the cultivation, manufacture, distribution, testing and sale of adult use marijuana, and/or adult use marijuana products in this state.

*State licensing authority* shall mean the authority (or authorities) created by the state for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of adult use marijuana, and/or adult use marijuana products in this state.

(T.M. of 11-5-2019(2))

Sec. 11-4. - Allowed.

Marijuana establishments shall be allowed, subject to the requirements and restrictions of this chapter and chapter 45 of this Code.

(T.M. of 11-5-2019(2))

Sec. 11-5. - Prohibited activities.

- (a) No marijuana establishment shall be established or operated within the town without first receiving and then maintaining all approvals required under this Code, including, but not limited to, this chapter and chapter 45 in this Code.
- (b) No marijuana establishment shall conduct any activity for which it has not received the required state license and local marijuana license.
- (c) Marijuana social clubs are prohibited within the town.

(T.M. of 11-5-2019(2))

Sec. 11-6. - License required.

- (a) *State license*. A marijuana establishment shall not operate until it is licensed by the state licensing authority pursuant to the requirements of 28-B M.R.S.A. ch. 1, as may be amended. An applicant may not operate a marijuana establishment without a state license and all other necessary town approvals.
- (b) *Local marijuana license*. A local marijuana license issued under the provisions of this article is required for any marijuana cultivation facility, marijuana products manufacturing facility, or marijuana store. A marijuana testing facility does not require a local marijuana license issuance but is required to file an application.

(T.M. of 11-5-2019(2))

Sec. 11-7. - Marijuana licensing procedures.

- (a) *License required.* It shall be unlawful for a licensee for any marijuana establishment, except for a marijuana testing facility, to operate without a valid local marijuana license from the town.
- (b) *Application.* An applicant for a local marijuana license shall file in person at the office of the town administrative assistant a completed application made on a form provided by the administrative assistant. The application shall be signed as required by subsection (c) below and shall be notarized. An application shall be considered complete when it contains the information and/or items required in this subsection (b), accompanied by the appropriate license application fee:
  - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
  - (2) Current business address or another mailing address for the applicant.
  - (3) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
  - (4) The business name, location, legal description, mailing address and phone number.
  - (5) The name and business address of the statutory agent or other agent authorized to receive service of process.
  - (6) A copy of the applicant's state license for operation of a marijuana establishment.
  - (7) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
  - (8) A statement of whether any establishment in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
    - a. Been declared by a court of law to be a nuisance; or
    - b. Been subject to a court order of closure.
  - (9) The completed application entitled: adult use marijuana stores, cultivation facilities, manufacturing facilities, and testing facilities application.
  - (10) If a state license is required for the proposed use, a copy of the applicant's state license application and supporting documentation as filed with the state licensing authority, and any amendments thereto.
  - (11) Evidence of all state approvals or conditional approvals required to operate a marijuana establishment, including, but not limited to, a state license as defined by this article, a state retail certificate, or a state health license.
  - (12) If not included in the applicant's state license application, attested copies of the articles of incorporation and bylaws if the applicant is a corporation, operating agreement if the applicant is a limited liability company, evidence of partnership if the applicant is a partnership, or articles of association and bylaws if the applicant is an association.
  - (13) If not included in the applicant's state license application, an affidavit that identifies all owners, officers, members, managers, or partners of the applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three years.
  - (14) If not included in the applicant's state license application, a release authorized by 16 M.R.S.A. § 620(6), as may be amended, with the application for each applicant and for each officer, owner, member, manager, or partner of the applicant seeking a local license.

- (15) Evidence of all land use approvals or conditional land use approvals required to operate a marijuana establishment pursuant to this Code, including, but not limited to, a building permit, special exception approval, site plan approval, change of use permit or certificate of occupancy.
- (16) Evidence of all other local approvals or conditional approvals required to operate a marijuana establishment pursuant to this Code, including, but not limited to, food license or victualer's license.
- (17) A description of the premises for which the license is sought, including a floor plan of the premises showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage.
- (18) A copy of the applicant's security plan and operations manual.

The information provided pursuant to this subsection (b) shall be supplemented in writing by certified mail, return receipt requested, or in person to the town administrative assistant within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (c) *Signature.* If a person who seeks a local marijuana license under this section is an individual, they shall sign the application as applicant. If a person who seeks a license is other than an individual, each person with an influential interest in the establishment or in a legal entity that controls the establishment shall sign the application for a license as applicant. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a marijuana license is granted.
- (d) *Confidentiality.* The information provided by an applicant in connection with an application for a local marijuana license under this article shall be maintained by the office of the town administrative assistant on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.

(T.M. of 11-5-2019(2))

Sec. 11-8. - Issuance of local marijuana license.

- (a) Responsibilities and review authority.
  - (1) The local licensing authority shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
  - (2) No local marijuana license shall be granted by the local licensing authority until the police chief, the fire chief, the code enforcement officer, and if applicable the health inspector have all made their recommendation upon the applicant's ability to comply with this article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.
- (b) Upon the filing of a completed application for a marijuana license, the town administrative assistant shall immediately schedule a public hearing on the application before the town select board to occur within 30 days. The administrative assistant shall provide written notice of the public hearing to the applicant and to the select board within five days of the filing of a completed application.

- (1) At the public hearing on the local marijuana license application, the select board shall take testimony of the applicant and any interested members of the public. The hearing shall focus upon the criteria for issuance of a permit.
- (2) The select board shall issue to the applicant written notice of its decision to grant or deny the license. If the board denies the permit, the written notice shall set forth the board's reasons for the denial. The select board shall grant a marijuana license unless it finds that the issuance of the license would be detrimental to public health, safety or welfare, as demonstrated by the following criteria:
  - a. An applicant is less than 21 years of age.
  - b. An applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
  - c. The establishment is in a location where a marijuana establishment is not permitted.
  - d. Any establishment in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
    1. Been declared by a court of law to be a nuisance; or
    2. Been subject to an order of closure.
    3. Been convicted of or pled guilty or nolo contendere to a specified criminal activity.
  - e. A person who has had a license for a marijuana establishment and/or medical marijuana establishment revoked by the town or by the state.
  - f. An Applicant who has not acquired all necessary state approvals and licenses and other required local approvals prior to the issuance of a local marijuana license.
- (c) The town may suspend or revoke a license for any violation of this chapter, chapter 45 or any other applicable building and life safety code requirements. The town may suspend or revoke a license if the licensee has a state license for a marijuana establishment and/or medical marijuana establishment suspended or revoked by the state. The licensee shall be entitled to notice and a hearing prior to any suspension or revocation.
- (d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and the address of the business. The license shall be posted in a conspicuous place at or near the entrance to the business so that it may be read at any time that the business is occupied by patrons or is open to the public.
- (e) A local marijuana license renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a new application. As part of the renewal process, the select board shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems.

(T.M. of 11-5-2019(2))

Sec. 11-9. - License fees.

The initial license and annual renewal fees for marijuana establishments licenses shall follow the town's master fee schedule.

(T.M. of 11-5-2019(2))

Sec. 11-10. - License expiration and renewal.

- (a) Each local marijuana license issued shall be effective for one year from the date of issuance.
- (b) Renewal applications must be submitted at least 30 days prior to the date of expiration of the annual local marijuana license. An application for the renewal of an expired license shall be treated as a new license application.

(T.M. of 11-5-2019(2))

Sec. 11-11. - Operating requirements.

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

- (1) *Display of license.* The current local marijuana license shall be displayed at all times in a conspicuous location within the licensed premises.
- (2) *Location.* All licensed premises shall be in fixed, permanent locations. Licensees shall not be permitted to operate marijuana establishments in temporary locations such as mall kiosks, town events or farm stands.
- (3) *Compliance with other laws.* A marijuana establishment shall meet all operating and other requirements of state and local law and regulation. To the extent the state has adopted or adopts in the future any stricter law or regulation governing marijuana establishments the stricter law or regulation shall control.

(T.M. of 11-5-2019(2))

Sec. 11-12. - Transfer of ownership and change of location.

- (a) Licenses issued under this article are not transferable to a new owner.
- (b) A state transfer license shall require a new local marijuana license.
- (c) Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A licensee who seeks to operate in a new location shall acquire a new local license for that location.
- (d) Licensees shall provide evidence to the town clerk annually of their license issue date with complete list of employees, owners, directors, and stake holders.

(T.M. of 11-5-2019(2))

Sec. 11-13. - Appeals.

Any appeals of decision shall be made to the state superior court.

(T.M. of 11-5-2019(2))

Sec. 11-14. - Violations and penalties.

- (a) The operation of any marijuana establishment without the required local marijuana license or in violation of the requirements of this chapter shall be a violation of this chapter.

- (b) Fines shall be set forth for violation of any of the provisions of this article; violators shall be punished by a civil penalty of not less than \$1,000.00 and not more than \$10,000.00 for each violation, plus attorneys' fees and costs, to be recovered on complaint, to the use of the town. Each day a violation is committed, or permitted to continue, shall constitute a separate violation and shall be fined as such.

(T.M. of 11-5-2019(2))

Sec. 11-15. - Other laws.

Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S.A. ch. 1, as may be amended. In the event of a conflict between the provisions of this chapter and the provisions of the Maine Marijuana Legalization Act or any other applicable state or local law or regulation, the more restrictive provision shall control.

(T.M. of 11-5-2019(2))

## **Proposed Ordinance Amendments:**

1. Agricultural Tourism
2. Barns / properties seeking to being used for special events such as weddings, conferences, large family gatherings etc. (tents, carnivals, large gatherings, special events, parties, fundraisers etc.). This issue should review items such as traffic control, emergency access, sanitary safety (rest rooms and hand washing accommodations), fire suppression, parking, noise, lighting, etc.)
3. "Waiver" standards compared to "variance" requests and the need to be consistent with State Law.
4. Lots in compliance with dimensional standards not allowed ZBA review but non-conforming lots can apply for waivers / variances.
5. ADU - Accessory Dwelling Units
6. Open space
7. Define residential property (possibly also define accessory and primary structures better).
9. Mobile Vending Units
10. Marijuana Uses / Zoning Ordinance.
11. Junkyards vs Hobbyists (oil, fluids, batteries, # vehicles, screening, noise, soil groundwater wetlands pollution).
12. Outdoor seating - PB or staff review? or temp. use approval by Staff and permanent approval by PB. We may want to also make an official "temporary use guideline". This might be tent approval for 7 days (weddings etc.), temp sign (such as grand openings) for say 30 days? temp. structure 30-90 days, 120 days for larger projects? Temp. living accommodations such as emergency housing or production (house / business fires, national / local emergencies).
13. Should we also review a SOP for local / national emergencies such as limited office hours, remote meetings, "clock stops" for appeals / project challenges on time limits, submittal dates and meeting delay guidelines, PB meeting schedule changes such as we had been doing with weekly hearings and bypassing ordinance work.
14. Should we seek any changes to how we review "public spaces" regarding marijuana operations. Should it include active land only (schools, parks, municipal uses and their grounds). What about unutilized Town owned properties such as tax acquired swamp lands etc.

## **EXISTING ORDINANCE**

### **Sec. 33-128. - Application fees.**

The applicant shall submit with the application a fee in the amount established by the master fee schedule. This shall be payable by check to the town, stating the specific purpose of the fee. Fees are not refundable. An application is not considered complete until all required fees are submitted.

During review of an application, the planning board may make the determination to hire technical consultant(s) if the scope is beyond the capability of town staff to verify or review any aspect of an applicant's application. Such technical consultant fees shall be paid by the applicant. When the planning board determines the need for technical review, the planning office will obtain an estimate for such review of an application. The applicant will be expected to pay the cost of the initial estimate plus ten percent. Upon the applicant's submission of this deposit, the funds shall be retained as escrow, with the planning office tracking and reporting to the applicant all fees paid by the town for said technical consultation. If the balance of the applicant's escrow deposit is drawn down by 75 percent and further technical consultation is required, the planning office shall notify the applicant. An estimate will be obtained for the completion of the project and billed to the applicant at cost plus ten percent. Any balance remaining in the applicant's escrow after a decision on the site plan review/revision application shall either be applied to fees associated with site inspections (if required) or be returned to the applicant within 60 days of the board's decision date on the application.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 202.2); T.M. of 11-4-03; T.M. of 6-16-2012(3); T.M. of 6-11-2019(3), art. 27)

## **PROPOSED ADDITIONS ARE UNDERLINED AND PROPOSED DELITIONS ARE ILLUSTRATED WITH ~~STRIKETHROUGH~~.**

### **Sec. 33-128. - Application fees.**

The applicant shall submit with the application a fee in the amount established by the master fee schedule. This shall be payable by check to the town, stating the specific purpose of the fee. Fees are not refundable. An application is not considered complete until all required fees are submitted.

During review of an application, ~~the planning board~~ the Town Planner and / or the Town's Code Enforcement Officer may make the determination to hire technical consultant(s) and to offset the Town's review time ~~if the scope is beyond the capability of town staff~~ to verify or review any aspect of ~~an applicant's~~ the petitioner's application. Such local and technical consultant fees shall be paid by the applicant. When the ~~planning board~~ Town Planner and / or Code Enforcement Officer determines the need for additional technical review, the planning

office will obtain and / or determine an estimate for such review of an application. The applicant will be expected to pay the cost of the initial estimate plus ten percent. Upon the applicant's submission of this deposit, the funds shall be retained as within an escrow account, with the planning and finance offices tracking and reporting to the applicant all fees ~~paid~~ utilized by the town for said internal or external technical consultation. If the balance of the applicant's escrow deposit is drawn down by 75 percent, and further technical consultation is required, the planning office shall notify the applicant. An ~~estimate-evaluation~~ will be ~~obtained~~ conducted for the cost associated for the completion of the project and billed to the applicant at the estimated cost plus ten percent. Any balance remaining in the applicant's escrow after a Planning Board decision on the ~~site plan review/revision~~ application shall either be applied to fees associated with site inspections (if required) or be returned to the applicant within 60 days of the planning board's decision date on the application.

Examples of technical items that fall within the technical review ordinance as outlined above are below. This list is not limited to the below items and necessary review items shall be determined by the Town Manager, Town Planner and / or Code Enforcement Officer:

1. Land use / zoning review
2. Landscaping
3. Engineering / stormwater
4. Roadway design
5. Traffic
6. Noise
7. Odor
8. The above items and any other items as determined by the Planning Board, Town Manager, Town Planner or Code Enforcement Officer.

The below fee schedule shall be used as a guideline in determining the amount of the required escrow. Should the Town desire to raise or lower these amounts the same procedures, as outlined above, shall be utilized.

1. Change in Use - \$500.00
2. Minor Site Plan Amendment (parking lot modifications, etc.) - \$1,000.00
3. Subdivision Amendment - \$2,000.00
4. Major Site Plans (Building additions, new construction, etc.) - \$2,500.00
5. Subdivision review (Commercial, Industrial and Residential) - \$2,500.00

Fees may be utilized for, but not limited to, the following:

1. Technical review/s
2. Applicant meetings / phone calls
3. Research and report writing
4. Internal meetings including Planning Board meetings
5. Licensing hearings

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 202.2); T.M. of 11-4-03; T.M. of 6-16-2012(3); T.M. of 6-11-2019(3), art. 27)

**AS THE ABOVE PROPOSAL MAY BE CONFUSING THE ABOVE PROPOSAL IS SHOWN BELOW WITH THE PROPOSED DELITIONS GONE AND THE PROPOSED TEXT SHOWN**

**Sec. 33-128. - Application fees.**

The applicant shall submit with the application a fee in the amount established by the master fee schedule. This shall be payable by check to the town, stating the specific purpose of the fee. Fees are not refundable. An application is not considered complete until all required fees are submitted.

During review of an application, the Town Planner and / or the Town's Code Enforcement Officer may make the determination to hire technical consultant(s) and to offset the Town's review time to verify or review any aspect of the petitioner's application. Such local and technical consultant fees shall be paid by the applicant. When the Town Planner and / or Code Enforcement Officer determines the need for additional technical review, the planning office will obtain and / or determine an estimate for such review of an application. The applicant will be expected to pay the cost of the initial estimate plus ten percent. Upon the applicant's submission of this deposit, the funds shall be retained as within an escrow account, with the planning and finance offices tracking and reporting to the applicant all fees utilized by the town for said internal or external technical consultation. If the balance of the applicant's escrow deposit is drawn down by 75 percent, and further technical consultation is required, the planning office shall notify the applicant. An evaluation will be conducted for the cost associated for the completion of the project and billed to the applicant at the estimated cost plus ten percent. Any balance remaining in the applicant's escrow after a Planning Board decision on the application shall either be applied to fees associated with site inspections (if required) or be returned to the applicant within 60 days of the planning board's decision date on the application.

Examples of technical items that fall within the technical review ordinance as outlined above are below. This list is not limited to the below items and necessary review items shall be determined by the Town Manager, Town Planner and / or Code Enforcement Officer:

9. Land use / zoning review
10. Landscaping
11. Engineering / stormwater
12. Roadway design
13. Traffic
14. Noise
15. Odor

16. The above items and any other items as determined by the Planning Board, Town Manager, Town Planner or Code Enforcement Officer.

The below fee schedule shall be used as a guideline in determining the amount of the required escrow. Should the Town desire to raise or lower these amounts the same procedures, as outlined above, shall be utilized.

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Fees may be utilized for, but not limited to, the following:

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7. Applicant meetings / phone calls
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(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 202.2); T.M. of 11-4-03; T.M. of 6-16-2012(3); T.M. of 6-11-2019(3), art. 27)



1333 State Road Eliot, ME 03903 Phone (207) 439-1817 Fax (207) 439-1415

To: Planning Board  
 From: Kristina Goodwin, Land Use Administrative Assistant  
 Date: June 23, 2020  
 Re: Target Deadlines for November Ballot

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The below tables provide recommended target deadlines to meet requirements for the November 2020 Warrant Dates.

<b>November 2020</b>	
<b>Action</b>	<b>Deadline</b>
Submissions due from external Boards requesting Planning Board review	April 7, 2020
Begin Reviewing drafts of Ordinance Amendment(s)	April 21, 2020
PB Public Hearing Date on Ordinance Amendment(s)	July 21, 2020
PB Final Ordinance Amendment(s)	August 4, 2020
Planning Office submit to Select Board	To M. Albert by: August 5, 2020
Legal Review	To be completed by August 11, 2020
Select Board final review and certification of Ordinance Amendments	August 13, 2020
After approval by the Select Board submit to Town Clerk	No later than September 4, 2020**
Date of Vote	November 3, 2020

*\*\*Please note: As indicated above, these dates represent target deadlines only. The final ordinance revision is due to the Town Clerk 60 days before the date of vote. For November 2020 this date is September 4, 2020.*