

**Updated Agenda  
Town of Damariscotta, Maine  
Board of Selectmen's Meeting  
December 5, 2018, 5:30 PM  
Damariscotta Town Hall**

- I. Pledge of Allegiance**
- II. Call to Order**
- III. Minutes**
  - 1. November 28 Meeting
- IV. Financial Reports**
  - 1. Payroll Warrant # 28
  - 2. Accounts Payable Warrant # 29
- V. Presentations**
  - 1. Update from Land Use Advisory Committee
- VI. Citizen Comments and General Correspondence**
- VII. Town Manager Items**
  - 1. Adult-Use and Medical Marijuana Ordinance Decision Spreadsheets
  - 2. Timeline for Ordinances to be considered at Annual Town Meeting
  - 3. Local Option Sales Tax Legislation
  - 4. Meeting to Review Waterfront Project Plans-January 17
- VIII. Official Action Items**
  - 1. Warrant for December 19 Special Town Meeting
  - 2. Date, time and location for Annual Town Meeting
  - 3. Appointment to Public Works Committee
- IX. Selectmen's Discussion Items**
- X. Adjournment**

TOWN MANAGER NOTES – DECEMBER 5, 2018  
BOARD OF SELECTMEN’S MEETING

**Presentations**

1. **Update from Land Use Advisory Committee-** Members of the Committee will be present to give the Board an update of the Committee’s activities during the past few months. The Committee’s plans for public meetings and the proposed timetable for ordinance amendments will also be reviewed. Committee member Haas Tobey will be referencing the attached documents during the presentation.

**Town Manager Items**

1. **Adult-Use and Medical Marijuana Ordinance Decision Spreadsheets-** I have prepared the attached spreadsheets with the assistance of Attorney Amanda Meader. The spreadsheets summarize the provisions in the recent State legislation that fall within the purview of local decision-making authority. Note that I have provided my recommendations on the various items that will ultimately need to be considered at Town Meeting. My intent is to provide a starting point for the community discussions that will begin on January 2.

Also attached are three draft ordinances prepared by Attorney Meader that would, if approved, implement the local zoning and licensing laws for both adult-use and medical marijuana commercial establishments. Again, these drafts are intended to be used as a starting point for the community conversations on this topic. Once the community conversation meetings are completed, I will be asking the Board to provide me with your direction on the language for the draft ordinances that will be the focus of public hearings before the Board of Selectmen and the Planning Board. The public hearings are tentatively being scheduled for February and the special town meeting is tentatively planned for March.

2. **Timeline for Ordinances to be considered at Annual Town Meeting (verbal)**
3. **Local Option Sales Tax Legislation (verbal)**
4. **Meeting to Review Waterfront Project Plans-January 17 (verbal)**

**Official Action Items**

1. **Warrant for December 19 Special Town Meeting-** The Town’s Restroom Construction Committee, Wright-Pierce, Phelps Architects and Town staff have been working to bring

the restroom construction costs more in line with the \$300,000 set aside for the building's construction. At this point, the firm selected to do the construction, Medomak Construction, has provided a modified proposal of \$374,000. My recommendation in the draft warrant is to include an additional \$16,000 to bring the total additional request up to \$90,000. The committee, the engineering firm and the architect will continue to work to see if the cost can be trimmed further. As an example, a significant cost item is the foundation that must meet federal and State requirements for the flood zone. Further research is being done to determine whether adjustment can be made to this part of the design while still maintaining compliance with applicable codes.

Assuming no adjustments are made in in the current cost projections, the following is the breakdown of the cost to build the new restroom:

Land purchase: \$90,000  
Design, Engineering and Project Management: \$70,000  
Building Construction: \$374,000 (detail provided on the attached modified proposal from Medomak Construction)  
Misc. including legal, surveying, soil tests and modification of utility lines: \$13,300  
Contingency: \$16,000

Total: \$563,500

Project Revenue is comprised of the following:

Private donations: \$335,200  
Private donation for Waterfront improvements: \$50,000  
State Grant: \$17,300  
November 2016 Bond Issue: \$60,000  
Capital Project Fund: \$11,000  
12/19/2018 Special Town Meeting Request: \$90,000

Total: \$563,500

If the funding is not approved, alternatives could include modifying the design to provide for a much more utilitarian building similar to what one would find in a municipal sports park. This alternative may not meet the objectives of many of the individuals and businesses who have donated most of the funding for the project.

It is important to note that although the size and look of the restroom building have been changed from what was initially proposed by the architect, the building design still provides for the construction of a building that reflects the nineteenth century architecture of our historic downtown. It will also be constructed of high-quality materials that minimize future maintenance and cleaning expense and, to the extent possible, reduce the opportunities for vandalism.

Attached is a draft of the warrant that the Board is being asked to approve for a December 19 Special Town Meeting. Since the additional funds needed to complete the project are

not included in the FY2019 Budget adopted last June, the Town Meeting as the Town's legislative body, will need to approve the use of a portion of the Town's fund balance in order for the project to move forward as recommended. Although Town staff have an estimate of the Town's fund balance amount, I have left the amount blank until we receive the actual amount from the Town's auditor.

**Recommended Action: Approve the attached warrant for a December 19, 2018 Special Town Meeting for the consideration of a supplemental budget request for the construction of the downtown restroom.**

- 2. Date, time and location for Annual Town Meeting** -At the Annual Town Meeting last June, voters gave the Board the authorization to set the date, time and location for the 2019 Annual Meeting. Town staff have reserved the gym at Great Salt Bay School on the second Wednesday of June, 2019 for this meeting.

**Recommended Action: Set the date, time and location for the 2019 Annual Town Meeting for Wednesday, June 12, 6 PM at the Great Salt Bay Community School.**

- 3. Appointment to Public Works Committee-** I have asked Selectman Abbotoni if he would like to serve as a member of the Town's Public Works Committee along with Josh Pinkham, George Parker, Hugh Priebe and myself. I believe that it would very helpful to have a current member of the Board as a member of the Committee that oversees the Town's public works activities and assists in the development of capital project recommendations for the full Board and ultimately, Town Meeting. Lou has indicated that he would be willing to serve.

**Recommended Action: Appoint Selectman Louis Abbotoni to the Town's Public Works Committee.**

# 2019 Engaging the Public Calendar

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4	5
				BOS			
J A N	6	7 PB LUAC	8	9	10	11	12
	13	14	15	16	17	18	19
				BOS			
	20	21 MLK	22	23	24	25	26
		28 LUAC	29	30	31	1	2
F E B	3	4 PB LUAC	5	6	7	8	9
				BOS			
	10	11	12	13	14	15	16
	17	18 LUAC Presidents Day	19	20	21	22	23
				BOS			
	24	25	26	27	28	1	2
M A R	3	4 PB LUAC	5	6	7	8	9
				BOS			
	10 DST	11	12	13	14	15	16
	17	18 LUAC	19	20	21	22	23
				BOS			
	24	25	26	27	28	29	30
A P R I L	31	1 PB LUAC	2	3	4	5	6
				BOS			
	7	8	9	10	11	12	13
	14 Good Friday	15 LUAC	16	17	18	19 B Easter Day	20
	21 Earth Day	22 EARTH Day	23 A	24	25 C	26	27
		29	30	1	2	3	4
				BOS			
M A Y	5	6 D PG LUAC	7	8	9	10	11
	12	13	14	15	16 E BOS	17	18
	19	20 LUAC	21	22	23	24	25
	26	27	28	29	30	31	1
J U N E	2	3 PB LUAC	4	5	6	7	8
				F			
	9	10	11	G	12	13	14
					BOS		
	16	17	18	19	20	21	22
	23	24	25	26	27	28	29

## Timelines for Annual/Special Town Meeting

ORDINANCE Petitions received: N/A Petitions Certified: N/A



Board of Selectmen decides voting method

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### ANNUAL/SPECIAL TOWN MEETING

- Clerk posts notice at  
Town Office 13 days before  
Public Hearings: **4/23** **A**
- **For BOTH Public Hearings:**
- Clerk advertises 1<sup>st</sup> time at least 12 days  
Before Public Hearings (which ends up being 3 weeks before hearing in LCN): **4/18** **B**
- Clerk advertises 2<sup>nd</sup> time at least 7 days  
Before Public Hearings: **4/25** **C**
- Planning Board holds Public  
Hearing at least 10 days before TM: **5/6** - **this would be the last day to hold a hearing because the BOS 2<sup>nd</sup> meeting in May is the 15<sup>th</sup> and they would sign the warrant that day due to 7 day warrant posting law. The 1<sup>st</sup> June meeting for the BOS only gives me 5 days to post the warrant. Because the voting method will be at an open town meeting, if changes are made-PB does not have to hold another public hearing. If they choose to hold several hearings-they would want to start the hearing process in March or April.** **D**
- Board of Selectmen certify  
copy of moratorium/ordinance to Clerk  
7 days before TM date: **5/15** **E**
- TM Warrant posted at least  
7 days before TM: **6/4** **F**
- Town Meeting: **6/11 & 6/12** **G**

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**\*Legal notes from MMA legal: When dealing with a complicated or subject of major importance, BOS is well advised to hold Public hearing well in advance (ie. 60 days) of town meeting/Ref Vote-due to possible changes to the ordinance & the need to hold an additional hearing.**

Memo to: The Larger Damariscotta Community

Date: November 28, 2018

Subject: Damariscotta Gathering on Preserving Habitat in Early Spring 2019

From: Haas Tobey

*This memo is meant to start the conversation for the design and implementation of a community gathering. We are “encouraging everyone to be involved.” This approach will fulfill Damariscotta’s value - we are an involved community.*

**WHAT:** A community gathering in late March or April 2019 is envisaged as a pot luck supper and mini charrette:

Participants will identify what we want or/and need in our ordinances to preserve wildlife habitat

- ❖ Key factors important to habitat preservation (corridors, open spaces, large tracts, etc.)?
- ❖ Features of relevant ordinances adopted and/or considered elsewhere?
- ❖ What is missing?

As ordinances are location specific, we will gather information as to where and how participants

- ❖ *Enjoy* scenic views: snowmobiling, hiking, camping, swimming, watching sunsets
- ❖ *Interact* with wildlife: fishing, hunting, tracking, finding snake skins or turkey feathers, etc.
- ❖ *Watch* wildlife: birding; sighting of moose, raccoons, bobcats, bear, beaver, lynx, etc.

Individuals with specialized experience and knowledge (e.g. land stewards, DRA/PWA, Twelve Rivers Conservation Initiative, etc.) will be encouraged to participate.

**WHY:** The Land Use Advisory Committee (LUAC) of Damariscotta is charged to develop ordinances which reflect the town’s values and life style and respond to the **2016 Comprehensive Plan**<sup>1</sup>. Implementing the town’s value **where culture and nature meet**<sup>2</sup> challenges us to understand what “this really means” to us and to our neighbors<sup>3</sup> as we work to draft ordinances which implement our values and the goals of the 2016 Comprehensive Plan. This is very important to The Town of Damariscotta and to the larger community we serve!

**LUAC wants to get it right.** Our goals are

- to preserve open space, retaining or increasing property value, adding value to future development and, hence, increasing the tax base.
- to provide access to nature: places to connect; places to walk to; places to walk through.
- to do it in the way we, as a community, want it done.

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<sup>1</sup> 2016 Comprehensive Plan (2014 Comp Plan as amended)

- Protect wetlands from adjacent development.
- Protect the water quality in lakes, ponds, and streams.
- Protect the Damariscotta River and its shoreline, incorporating up-to-date methods and technologies for keeping pollutants from entering the river.
  - (Monitoring of water quality?)

Memo to: The Larger Damariscotta Community

Date: November 28, 2018

Subject: Damariscotta Gathering on Preserving Habitat in Early Spring 2019

From: Haas Tobey

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- Open Space Plan (with surrounding towns) – Strive to preserve and protect
    - the remaining large blocks of forested and agricultural land for their forestry, habitat, agricultural, and recreational values. This may require development of
      - ~ Transfer of Development Rights &/or Fees
      - ~ Overlay Open Space Districts
      - ~ Other land conservation tools
  - LU & Site Plan Ordinances – LID
    - ~ LID = low impact development
    - ~ rain gardens, etc.
  - Landscape planting Plan – Connecting Nature to culture while restoring natural habitat – Succession Planting, 20-year time horizon, contractor Specs, warranty timelines, pruning, stock specifications, etc.

<sup>2</sup> where culture & nature meet

1. CONSERVATION – Adopt a guiding philosophy of preservation, stewardship, and connection.
2. CONNECT TO NATURE – Respect environmental resources and encourage access to them.
3. VIEW NATURE – Preserve scenic views of the River, ponds, streams, and key properties.
4. WORKING LANDSCAPE – Continue and expand working waterfronts and landscapes.
5. LEARN ABOUT THE LAND – Create a campus for environmental and agricultural education.
6. VARIETY OF GREEN AREAS – Create community playgrounds, playing fields, and gardens close to neighborhoods.

<sup>3</sup> Attendance will be open to residents of the various towns Damariscotta serves. Habitat preservation, remediation, nurture will require the cooperation of all our neighbors.



## MARIJUANA OPT-IN ARTICLES

Town Action Required	Statutory Citation	Description	Staff Recommendation	Timeline	Comments
Overall Opt-In for allowing adult-use marijuana establishments	Title 28-B § 403	In order for any marijuana establishments to be located in town, the Town must vote to allow that particular type of establishment		Opt-In Articles approved at 11.6.18 STM by secret ballot vote	Approved: Cultivation, Manufacturing facilities, testing facilities, operation of marijuana stores
Overall Opt-In for allowing medical marijuana establishments	22 MRSA §2429-D	Statute allows municipalities to authorize caregiver retail stores, registered dispensaries, testing facilities, manufacturing facilities (establishments in existence prior to effective dates are grandfathered)		Opt-In Articles approved at 11.6.18 STM by secret ballot vote	Approved were: Caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities
UPDATED: 12/4/18 MPC/MJL (A)					

## ADULT USE MARIJUANA ORDINANCES: ZONING RELATED

Town Action Required	Statutory Citation	Description	Staff Recommendation	Timeline	Comments
Zoning regulations for commercial establishments	Title 28-B § 401 (1)	A Municipality may adopt an ordinance providing land use regulations applicable to marijuana establishments within the municipality			Zoning ordinances require Planning Board Public Hearings
Cultivation Facilities	Title 28-B § 501	Allows facility to cultivate adult use marijuana to manufacturing facilities, stores or other cultivation facilities	Do not allow in Residential and C1 Conditional use in C2 and rural zones, at least 1000 feet from schools	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
Manufacturing Facilities	Title 28-B §502	Allows facility to manufacture adult use marijuana products for sale or distribution to marijuana stores or other products manufacturing facility	Do not allow in Residential and C1 zones. Conditional use in C2 and rural zones, at least 1000 feet from schools	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
Testing Facilities	Title 28-B §503	Allows facility to develop, research and test marijuana for that facility, another licensee, person who intends to use product for personal use, or qualified patient or caregiver	Do not allow in Residential and C1 zones. Conditional use in C2 and rural zones, at least 1000 feet from schools	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
Operation of Marijuana Store	Title 28-B §504	Allows facility to sell marijuana, marijuana paraphernalia, immature plants and seedlings. Other consumable marijuana products and non consumable products	Do not allow in Residential and C1 zones. Conditional use in C2 and rural zones, at least 1000 feet from schools	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance

**ADULT USE MARIJUANA ORDINANCES: ZONING RELATED**

Town Action Required	Statutory Citation	Description	Staff Recommendation	Timeline	Comments
Home Cultivation	Title 28-B § 1502 (3) (A)	Town can limit number of plants & seedlings to minimum allowed in Statute	MAXIMUM PER PARCEL: 3 mature plants 12 immature plants, unlimited seedlings per adult domiciled at residence	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
NOTES					

## ADULT USE MARIJUANA ORDINANCES: LICENSING

Town Action Required	Statutory Citation	Description	Staff Recommendation	Annual Fees	Timeline	Comments
Licensing regulations for commercial establishments	Title 28-B § 403 (3) B & 401	If municipality allows type of establishment for which application is submitted, applicant must obtain local license before receiving final State approval	Allow for licenses for all 4 types of establishments. Separate license must be obtained for each establishment located on same premises			
Cultivation	Title 28-B §401 (3) & (4)	Tier 1 ≤ 30 plants, ≤ 500 sq. ft. Tier 2 ≤ 2,000 sq. ft. Tier 3 ≤ 7,000 sq. ft. Tier 4 ≤ 20,000 sq. ft. Nursery ≤ 1,000 sq. ft.	Maximum Number of Licenses Tier 1-4 Tier 2-3 Tier 3-2 Tier 4-0 Nursery -3	Tier 1- \$500 Tier 2-\$1000 Tier 3-\$1500 Tier 4- \$0 Nursery-\$500	Community Conversations-January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
Manufacturing Facilities	Title 28-B §401 (3) & (4)		Maximum Number of Licenses 2	\$500.00	Community Conversations-January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
Testing Facilities	Title 28-B §401 (3) & (4)		Maximum Number of Licenses 1	\$500.00	Community Conversations-January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
						12/4/2018 MPC/MJL

(C)

**ADULT USE MARIJUANA ORDINANCES: LICENSING**

Town Action Required	Statutory Citation	Description	Staff Recommendation	Annual Fees	Timeline	Comments
Operation of Marijuana Store	Title 28-B §401 (3) & (4)		Maximum Number of Licenses 2	\$1,500.00	Community Conversations-January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
NOTES						
ED 12/4/2018 MPC/MJL						

(c)

**MEDICAL MARIJUANA ORDINANCE: ZONING RELATED**

Town Action Required	Statutory Citation	Description	Staff Recommendation	Timeline	Comments
<b>Caregiver Retail Stores</b>	22 MRSA §2423-A-2	Caregiver authorized to transfer harvested marijuana to qualifying patients and receive compensation. 22 MRSA § 2423 A-2, A-1 E	Not allowed in Residential & C1 zones. Allowed as conditional use in all other zones	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	One caregiver retail store currently allowed downtown under grandfathering clause in State Statute
<b>Registered Dispensaries (total # limited by State Statute)</b>	22 MRSA §2428	An entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients. 22 MRSA § 2422-6	Not allowed in Residential & C1 zones. Allowed as conditional use in all other zones	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
<b>Testing Facilities</b>	22 MRSA §2423-A-10	Firms licensed to receive and possess samples from qualified patients, caregivers, dispensaries, and manufacturing facilities to provide testing for the cannabinoid profile and potency of samples and for contaminants in the samples 22 MRSA § 2423-A (10)	Not allowed in Residential & C1 zones. Allowed as conditional use in all other zones	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
<b>Manufacturing Facilities</b>	22 MRSA §2423-F	Firms licensed for production, blending, infusing, compounding or other preparations of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. 22 MRSA § 2422-4-6	Limit to only Tier 1- (possess up to 40 lbs) no Tier 2-(possess up to 200 lbs) conditional use C2 and Rural Zones only	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Requires amendment to Land Use Ordinance
DATED 12/4/2018 MPC/MJL					

**MEDICAL MARIJUANA ORDINANCE: LICENSING**

Town Action Required	Statutory Citation	Description	Staff Recommendation	Timeline	Comments
Caregiver Retail Stores	22 MRSA § 2429-D		Allow 2 licenses	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
Registered Dispensaries (total # limited by State Statute)	22 MRSA § 2429-D		Allow 1 license	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
Testing Facilities	22 MRSA § 2429-D		Allow 1 license	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance
Manufacturing Facilities	22 MRSA § 2429-D		Allow 2 licenses	Community Conversations- January 2019 Planning Board & BOS P. Hearings February 2019 Special Town Meeting March 2019	Adopt as part of new Licensing Ordinance

## DAMARISCOTTA ADULT USE MARIJUANA LICENSING ORDINANCE

### **Article 1 - Authority.**

This article is enacted pursuant to authority granted under 30-A M.R.S. § 3001, and 28 M.R.S. § 401.

### **Article 2 - Purpose.**

The purpose of this article is to provide procedures and standards relating to the operation of adult use marijuana establishments and to require their annual licensing.

### **Article 3 - Definitions.**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

**Adult use marijuana:** "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.

**Adult use marijuana product:** "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.

**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 Adult Use Marijuana Act.

**Home cultivation of marijuana:** "Home cultivation of marijuana" means cultivation for personal adult use by a person 21 years of age or older is limited to cultivation of three (3) mature marijuana plants, twelve (12) immature marijuana plants, and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land.

**Marijuana cultivation:** "Marijuana cultivation" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

**Marijuana cultivation facility:** "Marijuana Cultivation facility" means a facility licensed under state law to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores. Cultivation facilities are categorized into tiers based on the number of adult plants and usable square footage for cultivation.

**Marijuana establishment:** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under state law.



**Marijuana manufacturing or manufacture:** "Manufacturing" or "manufacture" of marijuana means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

**Marijuana product:** "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

**Marijuana products manufacturing facility:** "Marijuana products manufacturing facility" means a facility licensed under state law to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

**Marijuana store:** "Marijuana store" means a facility licensed under state law to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

**Marijuana testing facility:** "Marijuana testing facility" means a facility licensed under state law to develop, research and test marijuana, marijuana products and other substances.

#### **Article 4 – Establishments allowed; License required.**

- (1) Pursuant to 28-B M.R.S. §403, the operation of marijuana establishments is allowed, subject to the restrictions of this ordinance and applicable state and local law.
- (2) No person shall operate a marijuana establishment, nor shall any property owner permit the use of his or her premises to be operated as a marijuana establishment, without a valid license issued by the town. A separate license must be obtained for each establishment located on the same premises. Each license shall be for a period of one year from the date of its issuance. A license must be obtained prior to the opening of a marijuana establishment. Applications for renewal licenses shall be submitted at least ninety (90) 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 license is granted.

#### **Article 5 - Application.**

Each applicant for a marijuana establishment license shall complete and file an application on the form provided by the town clerk, together with the applicable nonrefundable license fee, as well as the following supporting materials:

- (1) A copy of the applicant's state registration application and supporting documentation, as submitted to the state registration authority.

- (2) Evidence of all state approvals or conditional approvals required to operate a marijuana establishment, including, but not limited to, a state registry identification card or registration certificate.
- (3) 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 marijuana establishment.
- (4) If not included in the applicant's state registration 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 (3) years. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.
- (5) A release for each applicant and for each officer, owner, member, manager or partner of the applicant seeking a license allowing the Town of Damariscotta to obtain criminal records and other background information related to the individual.
- (6) A statement as to the type of establishment, the precise nature of the business, and a description of the nature of all products and services offered to its customers.
- (7) A description of the premises for which the license is sought, including a plan of the premises and a list of all equipment, parts and inventory used in the operation of the marijuana establishment.
- (8) Evidence of an interest in the premises in which the marijuana establishment will be located, together with the form of interest, along with the written consent of the owner of the premises for such use if the applicant is not the owner.
- (9) Evidence of all land use approvals or conditional land use approvals required to operate the marijuana establishment, or applications that have been filed and are pending for the required approvals, including but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy.
- (10) Evidence of all other approvals or conditional approvals required to operate the marijuana establishment, including any applicable food or victualer's license.
- (11) Evidence of compliance with the requirements of this ordinance.

If the town clerk determines that a submitted application is not complete, the clerk 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 clerk's request, the application may be denied.

#### **Article 6 - Investigation of applicant, officers, etc.**

Upon receipt of an application or of a notice of a change of any of the individuals listed in Article 5 above, the town shall provide copies of the completed application to the following staff members for purposes of conducting the investigations and issuing reports as listed below:

- (1) The code officer shall inspect the location or the proposed location to determine whether the applicable ordinances relating to land use issues and building and safety codes issues have been satisfied and shall report findings in writing to the town clerk.
- (2) The fire chief or his/her agent shall inspect the location or proposed location to determine if all town ordinances and any other applicable regulations concerning fire, health, and safety have been satisfied and shall report findings in writing to the town clerk; and
- (3) The police chief or his/her agent shall investigate the application, including the criminal history record information and shall report findings in writing to the town clerk.

#### **Article 7 - Action on application.**

- (1) *Public hearing.* The town clerk upon receipt of a completed application and upon receipt of the reports required under Article 6 above, shall schedule a public hearing at a regular or special meeting of the Board of Selectmen and shall arrange for public notice of the public hearing to appear in the newspaper of general circulation within the Town of Damariscotta at least seven days prior to the date of the scheduled public hearing. Costs of the hearing notice shall be paid out of the license and processing fee.
- (2) *Board of Selectmen action.* The council, after notice and public hearing, shall determine whether the applicant complies with the requirements of this article. Upon such determination by the council, the town clerk shall be authorized to issue the license.

#### **Article 8 - Status of license—Display.**

No license issued under this article 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 marijuana establishment for which the license is issued.

#### **Article 9 - Duty to update information.**

Any licensee issued a license under this article shall have the duty to maintain updated and accurate information regarding all of the information provided pursuant to the application process 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.

#### **Article 10 - Standards for approval, denial, revocation.**

A license application for a marijuana establishment shall be denied by the Board of Selectmen, and an existing license may be suspended or revoked by the Board of Selectmen after notice and hearing, if the applicant, or any owner of the applicant or licensee:

- (1) Fails to meet the requirements of this ordinance.
- (2) Is not at least twenty-one (21) years of age.
- (3) Is not a resident of the state of Maine.
- (4) Has had a license for a marijuana establishment revoked by a municipality or by the state.
- (5) Has not acquired all necessary state and local approvals prior to issuance of the license.
- (6) Has been convicted of a disqualifying drug offense.
- (7) Has provided false or misleading information in connection with the license application.

#### **Article 11 - Operating Requirements.**

In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Board of Selectmen that the following requirements will be met. A licensee shall comply with all of these requirements during the term of the license.

(1) *Fixed location.*

All licensed premises shall be fixed, permanent locations. Licensees shall not be permitted to operate marijuana establishments in other than the licensed premises, such as at farmer's markets, farm stands or kiosks.

(2) *Security.*

(a) The licensed premises shall have lockable doors and windows and shall be served by an alarm system that includes automatic notification to the Damariscotta Police Department.

(b) The licensed premises 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.

(c) The licensed premises shall have exterior spot lights with motion sensors covering the full perimeter of the building(s).

(3) *Ventilation.*

(a) The licensed premises shall comply with all odor and air pollution standards established by ordinance.

(b) All 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.

(4) *Loitering.*

The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It shall be the licensee'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.

*(5) Compliance with requirements of state and local law.*

A 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 marijuana establishments that conflicts in any way with the provisions of this article, the more restrictive shall control.

**Article 12 - Violations; penalties.**

In addition to revocation or suspension of a medical marijuana establishment license as provided in this article, the violation of any provision of this article shall be punished 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 article. 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 Damariscotta police chief, the Damariscotta codes enforcement officer, and/or their designees. Notice of violations by marijuana establishment licensees of other provisions of this Code shall be provided to the police chief, town officers, and town attorney.

**Article 13 – Limitations in licenses.**

No more than the specified quantities of licenses shall be issued.

Marijuana store:	2
Cultivation Facilities:	
Tier 1 (≤ 30 adult plants, ≤ 500 sq. ft.)	4
Tier 2 (≤ 2000 sq. ft.)	3
Tier 3 (≤ 7000 sq. ft.)	2
Tier 1 (≤ 20,000 sq. ft.)	0
Nursery (≤ 1000 sq. ft.)	3
Marijuana manufacturing facility:	2
Marijuana testing facility:	1

**Article 14 - License fees.**

The annual license fees shall be as follows:

Marijuana store:	\$1500.00
Cultivation Facilities:	
Tier 1 (≤ 30 adult plants, ≤ 500 sq. ft.)	\$500.00
Tier 2 (≤ 2000 sq. ft.)	\$1000.00
Tier 3 (≤ 7000 sq. ft.)	\$1500.00
Tier 1 (≤ 20,000 sq. ft.)	\$ 0.00
Nursery (≤ 1000 sq. ft.)	\$500.00
Marijuana manufacturing facility:	\$500.00
Marijuana testing facility:	\$500.00

**Article 15 - Severability.**

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

**Article 16 - Appeals.**

An appeal from any final decision of the Board of Selectmen under this article may be taken by any party to Board of Appeals within 30 days of the decision, pursuant to Board of Appeals Ordinance Section 5(A)(3).

## DAMARISCOTTA MEDICAL MARIJUANA LICENSING ORDINANCE

### **Article 1 - Authority.**

This article 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.

### **Article 2 - Purpose.**

The purpose of this article is to provide procedures and standards relating to the operation of medical marijuana and to require their annual licensing.

### **Article 3 - Definitions.**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

**Medical marijuana establishment:** "Medical marijuana establishment" means a registered caregiver retail store, registered dispensary, medical marijuana testing facility, or medical marijuana manufacturing facility.

**Medical marijuana testing facility:** "Medical marijuana testing facility" means a public or private laboratory authorized under state law to test medical marijuana for contamination, potency or cannabinoid profile.

**Medical marijuana manufacturing facility:** "Medical marijuana manufacturing facility" means a manufacturing facility authorized under state law to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use.

**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.

**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.

**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.

### **Article 4 - Establishments allowed; License required.**

(1) Pursuant to 22 M.R.S. §2429-@, the operation of medical marijuana establishments is allowed, subject to the restrictions of this ordinance and applicable state and local law.

(2) 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 a valid license issued by the town. Each license shall be for a period of one year from the date of its issuance. A license must be obtained prior to the opening of a medical marijuana establishment. Applications for renewal licenses shall be submitted at least ninety (90) 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 license is granted.

(3) The licensing requirements of this ordinance do not apply to any medical marijuana establishment continuously operating with municipal approval since before December 13, 2018.

### **Article 5 - Application.**

Each applicant for a medical marijuana establishment license shall complete and file an application on the form provided by the town clerk, together with the applicable nonrefundable license fee, as well as the following supporting materials:

- (1) A copy of the applicant's state registration application and supporting documentation, as submitted to the state registration authority.
- (2) 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.
- (3) 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.
- (4) If not included in the applicant's state registration 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 (3) years. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.
- (5) A release for each applicant and for each officer, owner, member, manager or partner of the applicant seeking a license allowing the Town of Damariscotta to obtain criminal records and other background information related to the individual.
- (6) 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.



- (7) A description of the premises for which the license is sought, including a plan of the premises and a list of all equipment, parts and inventory used in the operation of the medical marijuana establishment.
- (8) Evidence of an interest in the premises in which the medical marijuana establishment will be located, together with the form of interest, along with the written consent of the owner of the premises for such use if the applicant is not the owner.
- (9) Evidence of all land use approvals or conditional land use approvals required to operate the medical marijuana establishment, or applications that have been filed and are pending for the required approvals, including but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy.
- (10) Evidence of all other approvals or conditional approvals required to operate the medical marijuana establishment, including any applicable food or victualer's license.
- (11) Evidence of compliance with the requirements of this ordinance.

If the town clerk determines that a submitted application is not complete, the clerk 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 clerk's request, the application may be denied.

#### **Article 6 - Investigation of applicant, officers, etc.**

Upon receipt of an application or of a notice of a change of any of the individuals listed in Article 5 above, the town shall provide copies of the completed application to the following staff members for purposes of conducting the investigations and issuing reports as listed below:

- (1) The code officer shall inspect the location or the proposed location to determine whether the applicable ordinances relating to land use issues and building and safety codes issues have been satisfied and shall report findings in writing to the town clerk.
- (2) The fire chief or his/her agent shall inspect the location or proposed location to determine if all town ordinances and any other applicable regulations concerning fire, health, and safety have been satisfied and shall report findings in writing to the town clerk; and
- (3) The police chief or his/her agent shall investigate the application, including the criminal history record information and shall report findings in writing to the town clerk.

#### **Article 7 - Action on application.**

- (1) *Public hearing.* The town clerk upon receipt of a completed application and upon receipt of the reports required under Article 6 above, shall schedule a public hearing at a regular or special meeting of the Board of Selectmen and shall arrange for public notice of the public hearing to appear in the newspaper of general circulation within the Town of

Damariscotta at least seven days prior to the date of the scheduled public hearing. Costs of the hearing notice shall be paid out of the license and processing fee.

(2) *Board of Selectmen action.* The Board after notice and public hearing, shall determine whether the applicant complies with the requirements of this article. Upon such determination by the Board, the town clerk shall be authorized to issue the license.

#### **Article 8 - Status of license—Display.**

No license issued under this article 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.

#### **Article 9 - Duty to update information.**

Any licensee issued a license under this article shall have the duty to maintain updated and accurate information regarding all of the information provided pursuant to the application process 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.

#### **Article 10 - Standards for approval, denial, revocation.**

A license application for a medical marijuana establishment shall be denied by the Board of Selectmen, and an existing license may be suspended or revoked by the Board of Selectmen after notice and hearing, if the applicant, or any owner of the applicant or licensee:

- (1) Fails to meet the requirements of this ordinance.
- (2) Is not at least twenty-one (21) years of age.
- (3) Is not a resident of the state of Maine.
- (4) Has had a license for a marijuana establishment revoked by a municipality or by the state.
- (5) Has not acquired all necessary state and local approvals prior to issuance of the license.
- (6) Has been convicted of a disqualifying drug offense.
- (7) Has provided false or misleading information in connection with the license application.

#### **Article 11 - Operating Requirements.**

In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Board of Selectmen that the following requirements will be met. A licensee shall comply with all of these requirements during the term of the license.

##### **(1) *Fixed location.***

All licensed premises shall be fixed, permanent locations. Licensees 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.

*(2) Security.*

(a) The licensed premises shall have lockable doors and windows and shall be served by an alarm system that includes automatic notification to the Damariscotta Police Department.

(b) The licensed premises 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.

(c) The licensed premises shall have exterior spot lights with motion sensors covering the full perimeter of the building(s).

*(3) Ventilation.*

(a) The licensed premises shall comply with all odor and air pollution standards established by ordinance.

(b) 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.

*(4) Loitering.*

The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the premises. It shall be the licensee'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.

*(5) 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 article, the more restrictive shall control.

**Article 12 - Violations; penalties.**

In addition to revocation or suspension of a medical marijuana establishment license as provided in this article, the violation of any provision of this article shall be punished 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 article. 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 Damariscotta police chief, the Damariscotta codes enforcement officer, and/or their designees. Notice of violations by medical marijuana establishment licensees of other provisions of this Code shall be provided to the police chief, town officers, and town attorney.

**Article 13 – Limitations in licenses.**

No more than the specified quantities of licenses shall be issued.

Registered caregiver retail store:	2
Registered dispensary:	1
Medical Marijuana Manufacturing facility:	2
Medical Marijuana testing facility:	1

**Article 14 - License fees.**

The annual license fees shall be as follows:

Registered caregiver retail store:	\$ 500.00
Registered dispensary:	\$ 500.00
Medical Marijuana Manufacturing facility:	\$ 500.00
Medical Marijuana testing facility:	\$ 500.00

**Article 15 - Severability.**

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

**Article 16 - Appeals.**

An appeal from any final decision of the Board of Selectmen under this article may be taken by any party to Board of Appeals within 30 days of the decision, pursuant to Board of Appeals Ordinance Section 5(A)(3).

## DRAFT – DAMARISCOTTA LAND USE ORDINANCE AMENDMENTS

### Article 2:

**Adult use marijuana:** "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.

**Adult use marijuana product:** "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.

**Home cultivation of marijuana:** "Home cultivation of marijuana" means cultivation for personal adult use by a person 21 years of age or older is limited to cultivation of three (3) mature marijuana plants, twelve (12) immature marijuana plants, and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land.

**Marijuana cultivation:** "Marijuana cultivation" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

**Marijuana cultivation facility:** "Marijuana Cultivation facility" means a facility licensed under state law to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

**Marijuana establishment:** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under state law.

**Marijuana manufacturing or manufacture:** "Manufacturing" or "manufacture" of marijuana means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

**Marijuana product:** "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

**Marijuana products manufacturing facility:** "Marijuana products manufacturing facility" means a facility licensed under state law to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

**Marijuana store:** "Marijuana store" means a facility licensed under state law to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing

facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

**Marijuana testing facility:** "Marijuana testing facility" means a facility licensed under state law to develop, research and test marijuana, marijuana products and other substances.

**Medical marijuana establishment:** "Medical marijuana establishment" means a registered caregiver retail store, registered dispensary, medical marijuana testing facility, or medical marijuana manufacturing facility.

**Medical marijuana testing facility:** "Medical marijuana testing facility" means a public or private laboratory authorized under state law to test medical marijuana for contamination, potency or cannabinoid profile.

**Medical marijuana manufacturing facility:** "Medical marijuana manufacturing facility" means a manufacturing facility authorized under state law to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use.

**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.

#### **Article 4:**

**B.**

#### **5. Home Cultivation of Marijuana**

(renumber section 5 to section 6)

#### **Article 5:**

**C.**

**2.**

**g.** Marijuana cultivation facilities

**h.** Marijuana products manufacturing facilities and medical marijuana manufacturing facilities

**i.** Marijuana stores

**j.** Registered caregiver retail stores and registered dispensaries

**k.** Marijuana testing facilities and medical marijuana testing facilities

#### **Article 6:**

C.

8. Marijuana cultivation facilities
9. Marijuana products manufacturing facilities and medical marijuana manufacturing facilities
10. Marijuana stores
11. Registered caregiver retail stores and registered dispensaries
12. Marijuana testing facilities and medical marijuana testing facilities

**Article 9:**

**R. Limit on Home Cultivation of Marijuana.**

No person shall be permitted to cultivate marijuana plants or seedlings on a parcel or tract of land on which he or she is not domiciled.

**S. Limit on Location of Marijuana Establishments.**

A marijuana establishment may not be permitted or operated within 1000 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.

**Article 13:**

(delete existing Article 13 language)

The enactment of this ordinance hereby amends the Land Use Ordinance of November 16, 2016.

**LAND USE ORDINANCE**  
**DAMARISCOTTA, MAINE**  
Revised November 16, 2016

**History:** Revised 3/23/98  
Revised 2/23/2000: Article 2 - Definition of Light Manufacturing and Article 3. C.2.b Other Commercial (C2)  
Revised June 12, 2002: Wireless Communication  
Revised July 10, 2002  
Revised December 4, 2003: Article 10 – Building Permits, Article 3 – Districts, Article 5 – Commercial Districts, Article 8 – Municipal District; renumbered several sections for clarity.  
Revised November 10, 2004: Article 9 F (3)  
Revised March 21, 2006: Article 5-Commercial Districts A; B(3)3; C(3); Article 9-General Provisions F(3) a.1.a & b  
Revised June 11, 2008 – Revisions to Board of Appeals: Article 11  
Revised January 21, 2009 – Revisions to Article 6 – Rural district and Article 2 - Definitions  
Revised March 18, 2015-Revisions to -Adult Entertainment, Article 5(C)(2) Conditional Uses, Article 5(C)(3) Standards, Article 12 Adult Entertainment Establishment Definitions and Standards  
Revised June 10, 2015: Art. 3.C.2.b - Change to Comm. C2 boundary near Biscay Rd.  
Revised June 15, 2016: Art. 3.C.2.b – Change from Rural to C2 District, Lots 1/67 & 3/32  
Revised November 16, 2016: Art. 2, 4, 5, 6, 9 – insert Accessory Apartment Ordinance  
Revised (DATE): Art. 2, 4.B.5, 5.C.g-k, 6.C.8-12, 9.R-S, 13– insert provisions related to marijuana establishments and home cultivation

**ARTICLE 1 - GENERAL**

**A. TITLE**

This ordinance shall be known and may be cited as the "Land Use Ordinance" of the Town of Damariscotta, Maine.

**B. PURPOSE**

The purpose of this Ordinance is to further the maintenance of safe and healthful conditions and the general welfare, to prevent and control water pollution, to protect wildlife, to control building sites and location of structures and land uses, and to conserve shoreland areas, at the same time providing the greatest possible latitude in individual choices of land use. The Ordinance is intended to preserve the character and objectives of the community as determined by its citizens and outlined in its Comprehensive Plan. This ordinance is designed to implement the purposes included in the Maine Revised Statutes for Municipal Land Use plans.

**C. CONFLICT WITH OTHER ORDINANCES**

1. This Ordinance shall not repeal, annul, or in any other way impair the necessity of compliance with any other rule, regulation, bylaw or provision of the Federal, State or local government including Damariscotta's Shoreland Zoning Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures than the State or Federal regulations, this Ordinance shall control.

**D. VALIDITY AND SEVERABILITY**

1. Should any section or provision of this ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

**E. CHANGES AND AMENDMENTS**



1. All changes and amendments to this Ordinance must be made at a regular or special Town Meeting of Damariscotta, by a majority of the governing body.

**F. EFFECTIVE DATE**

1. The effective date of this Ordinance is 1 April 1998 and revisions as of 2/23/2002, 6/12/2002, 7/10/2002, 12/4/03, 11/10/04, 3/21/06 6/11/08,1/21/09, 3/18/15, 3/10/15 and June 15, 2016.

**ARTICLE 2 - DEFINITIONS**

Except where specifically defined, all words used in this ordinance shall carry their customary meanings. The Word "shall" is always mandatory. The word "may" is always permissive. For the purposes of this Ordinance, the following words or terms shall have the following meanings, unless the context clearly indicates otherwise.

**Accessory Apartment:** A small dwelling, either attached or detached (unattached) which is part of an existing single family owner-occupied home on the same lot and which is secondary to the single family home. Both units shall be occupied as primary residences and neither unit may be rented for less than on a monthly basis.

**Accessory Use or Structure:** A use of structure of a nature incidental and subordinate to those of the principal use or structure.

**Adult use marijuana:** "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.

**Adult use marijuana product:** "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.

**Alteration:** Any change, addition or modification in construction, or change in the structural members of a building, such as bearing walls, columns, beams, and girders.

**Apartment Building:** A building containing dwelling units arranged, intended, or designed to be occupied by 3 or more families living independently of each other.

**Building:** A structure for the support, shelter, or enclosure of persons, animals, goods, or property of any kind.

**Building Height:** The building height shall be the height measured from the mean ground level at the foundation line to the highest point of the roof. Features of buildings and structures, such as chimneys, towers, ventilators, and spires shall not be considered as part of the roof. Buildings within the shoreland zone shall meet the definition of that ordinance.

**Campground:** Any area or tract of land used to accommodate two or more groups of people, in temporary living quarters, including tents, travel trailers or other temporary shelters.

**Code Enforcement Officer:** A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Electrical Inspector, and the like, where applicable.

**Conditional Use:** A conditional use of land or buildings is a use that would not be appropriate in the land use district for which it is proposed, except with certain restrictions and controls, it will meet the intentions and purposes of this Ordinance. Except for Home Occupations, conditional uses are permitted only after review and approval by the Planning Board for conformance with the Site Review Ordinance.

**Condominium:** A building containing dwelling units arranged, intended or designed to be individually owned by their occupants under Maine State Law prevailing.

**Dwelling:** A building designed or used as the permanent or seasonal living quarters for one or more families.

**Dwelling Unit:** a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles or motels, hotels and other similar facilities not equipped with a kitchen.

**Emergency Operations:** Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

**Excavation:** Any removal of earth or earth material from its original position.

**Family:** One or more persons living together as a single household under a unified management with obligations of mutual support.

**Forest Management Activities:** Activities designed and intended to manage timber resources, including timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, and other harvesting, rejuvenation of forest stands, and other similar associated activities, not including the construction of roads.

**Frontage:** The length of a lot bordering on a street, road, or right-of-way. For a lot fronting on public waters, the length in a straight line measured between the intersections of the side lot lines with the shoreline at normal high water elevation. For a corner lot, the frontage shall be on the way most traveled, as determined by the Code Enforcement Officer.

**Gallery:** An establishment that displays and sells works of art.

**Home cultivation of marijuana:** “Home cultivation of marijuana” means cultivation for personal adult use by a person 21 years of age or older is limited to cultivation of three (3) mature marijuana plants, twelve (12) immature marijuana plants, and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land.

**Home Occupation:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and comparable with the residential use of the property and surrounding residential uses; and 2) which employs no more than 2 persons other than family members residing in the home.

**Marijuana cultivation:** "Marijuana cultivation" means the planting, propagation, growing,

harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.  
"Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

**Marijuana cultivation facility:** "Marijuana Cultivation facility" means a facility licensed under state law to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

**Marijuana establishment:** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under state law.

**Marijuana manufacturing or manufacture:** "Manufacturing" or "manufacture" of marijuana means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

**Marijuana product:** "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

**Marijuana products manufacturing facility:** "Marijuana products manufacturing facility" means a facility licensed under state law to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

**Marijuana store:** "Marijuana store" means a facility licensed under state law to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

**Marijuana testing facility:** "Marijuana testing facility" means a facility licensed under state law to develop, research and test marijuana, marijuana products and other substances.

**Medical Facilities:** Hospital and related uses shall include acute care, intermediate care, adult day care facilities, physician's offices, clinics, and other related uses.

**Medical marijuana establishment:** "Medical marijuana establishment" means a registered caregiver retail store, registered dispensary, medical marijuana testing facility, or medical marijuana manufacturing facility.

**Medical marijuana testing facility:** "Medical marijuana testing facility" means a public or private laboratory authorized under state law to test medical marijuana for contamination, potency or cannabinoid profile.

**Medical marijuana manufacturing facility:** "Medical marijuana manufacturing facility" means a manufacturing facility authorized under state law to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use.

**Light manufacturing:** Businesses manufacturing, assembling or storing products where there is no exterior effect of the manufacturing use, including no exterior noise, odors, or air pollution, as defined in the site review ordinance. It may include laboratory or research facilities, printing or publishing plants, warehousing, wholesale business or storage, building materials, contractor's offices, dry batch concrete plants, trade shops, (including cabinetry, carpentry, plumbing, electrical or finishing); and related exterior equipment and product storage for those uses. It shall not include heavy manufacturing or industrial uses such as asphalt and wet batch mixing plants, rock crushing or processing or chemical reprocessing and storage.

**Lot:** A single parcel of land, described on a deed, plot, or other similar legal document.

**Lot Coverage:** The ratio of the total area of all structures on a lot divided by the area of the lot.

**Marina:** A shore front commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

**Mobile Homes:** A prefabricated self-contained dwelling unit manufactured on a permanent chassis and transported as a single unit to the site where it is to be occupied.

**Mobile Home Park:** A lot on which 2 or more mobile home sites are to be rented.

**Modular Home:** A prefabricated self-contained dwelling unit which is manufactured and transported in 2 or more sections to the site where it is to be occupied, and there joined together and set on a permanent foundation.

**Motel:** A building or facility of more than 10 lodging rooms with each room having its own private bathroom and each room having its own entrance. For the purpose of determining land area requirements, 3 lodging rooms shall require the same land area as one dwelling unit.

**Multi-family Dwellings:** Three or more dwelling units in single or multiple buildings on a single lot.

**Non-conforming Use:** A building, structure, or use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

**Non-combustible:** A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire. Materials, where tested in accordance with ASTM E136, Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750 degrees C, shall be considered as noncombustible.

**Planned Unit Development:** A concept of planned development to allow maximum variations of design provided that required residential densities are not exceeded. The development must be planned as a whole according to comprehensive and detailed plans including street, utilities, lots or building sites, design of all buildings to be constructed, and other uses and improvements on the land.

**Principal Building:** The building in which the primary use of the lot is conducted.

**Professional Office:** Offices for the practice of the professions of medicine, law architecture, engineering, accounting, and dentistry, and other commonly accepted professions.

**Public Utility:** Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public, and subject to regulations by the Public Maine Utilities Commission.

**Recreational Vehicle:** A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling. It may include a pick-up camper, travel trailer, tent trailer, or motor home.

**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.

**Retail Business:** Business establishment for the sale of merchandise to the public.

**Rooming & Bed and Breakfast Houses:** A building of up to 10 rooms in which lodging or boarding and lodging capabilities are provided to the public for compensation.

**Service Establishment:** Profit and non-profit business whose function it is to provide service to the public.

**Setback:** The minimum horizontal distance from a lot line to the nearest part of a building.

**Sewered:** Connected to the municipal sewer system.

**Structure:** Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

**Two-family Dwelling:** A single building containing two separate dwelling units separated by a common wall or on separate levels.

**Wholesale Business:** Business established for the sale or distribution of products to retail businesses.

**Water supply Standpipe:** A structure associated with municipal utility that is a large water container on top of a tower usually 35 feet or more above ground to store water and to facilitate gravity flow, e.g. water pressure, to customers in buildings in the service area of a municipal water supply utility.

**Wireless Telecommunications facility or facilities-** any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications

(SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

**Yard:** The area of land on a lot not occupied by the principal building or accessory structure.

**Yard, Front:** The area of land between the front lot line and the front line of any building, and extending the full width of the lot.

**Yard, Side:** The area of land between the side lot line and the side line of any building, and extending from the front yard to the rear yard. Any yard area not a front yard or rear yard, shall be deemed a side yard.

**Yard, Rear:** The area of land between the rear lot line and the rear line of any building, and extending the full width of the lot. A corner lot has no rear yard.

### **ARTICLE 3 - DISTRICTS**

**A.** To implement the provisions of this Ordinance, the Town of Damariscotta is hereby divided into the following Land Use Districts:

1. General Residential
2. Commercial
  - a. (C1) Downtown
  - b. (C2) Other Commercial
3. Rural
4. Wireless Communication- This district is an overlay district within portions of the C2 and Rural districts. All wireless telecommunication facilities are limited to this area. All standards and procedures for permitting these facilities are contained in the Site Review Ordinance.
5. Municipal

The Shoreland area is controlled by the existing Damariscotta Shoreland Zoning Ordinance and shall be considered an "overlay" district. In other words, in the Shoreland areas the Shoreland Use requirements and permit procedures of the Shoreland Ordinance shall be in effect in addition to the requirements of this Land Use Ordinance.

### **B. MAP**

1. The location and boundaries of the above districts are hereby established on the map entitled "Land Use Map of the Town of Damariscotta," dated January 23, 1998, filed with the Town Clerk, which map is hereby made a part of this Ordinance. And, as amended June 10, 2015 on the map entitled "Damariscotta Maine – June 10, 2015 - Zoning Map" filed with the Town Clerk.
2. Where uncertainty exists with respect to district boundaries as shown upon such map the following rules shall apply:
  - a. Unless otherwise indicated, district boundary lines are the center lines of roads, streets or rights of way.
  - b. Where discrepancy exists between the map and written description of each district, the written word shall prevail.
  - c. Where discrepancy exists between physical features existing on the ground and the

official map and/or written district description, the Board of Appeals shall interpret the district boundaries.

## C. DISTRICT DESCRIPTIONS

### 1. GENERAL RESIDENTIAL DISTRICT

#### a. Land South of Business Route One.

Beginning at the intersection of Bristol Road and the town line of Bristol and Damariscotta; thence easterly along the town line 2700 feet; thence North to the Northeast Corner of Lot 14-19 of Map 1; thence westerly along the southerly bound of Lot 19, Map 1 to a point 500 feet east of the center line of Bristol Road; thence northeasterly parallel to the center line of Bristol Road and School Street, 500 feet east of each to a point making the southeast corner of Lot 25, Map 10; thence northwesterly along the easterly line of Lot 25 to a point 500 feet from the center line of Business Route 1; thence westerly parallel to and 500 feet from the center line of Business Route 1 until converging at the southerly corner of Lot 30, Map 9; thence along the easterly and northerly lines of Lot 31A to the intersection with the westerly line of Lot 31, Map 9; thence northwesterly to the southwest corner of Lot 119, Map 6; thence northerly along the easterly lines of Lots 122, 121, and 120 of Map 6 to the intersection with the center line of Business Route 1; thence northwesterly along Business Route 1 to its intersection with the Bristol Road Extension; thence southwest along the center line of the Bristol Road Extension to the Bristol Road; thence southeasterly along the center line of Bristol Road to the intersection with Cross Street; thence westerly along Cross Street to the northeast corner of Lot 128, Map 6; thence southerly to the southeast corner of Lot 128; thence westerly to the northwest corner of Lot 125; thence southerly to the southeast corner of Lot 134; thence westerly along the northerly bound of Lot 134A to the center line of Water Street; thence northerly along Water Street to the northeast corner of Lot 3, Map 6; thence westerly along the northerly bound of Lot 3 to the shore and water of the Day's Cove; thence following the shore and water of Day's Cove to the southwest corner of Lot 3, Map 9; thence following the northerly, easterly, bounds of Lot 63, Map, the easterly bounds of Lots 29, 30 of Map 11, and the easterly and southerly bound of map 27, Map 11 to the Shore of the Damariscotta River; thence following the shore south to the Bristol Town line; thence easterly to the point of the beginning.

#### b. Land westerly of Business Route 1.

Beginning at the shore of Cottrill's Cove at the Northeast corner of Lot 41, Map 6; thence southeasterly along the sideline of Lot 41 to the centerline of Elm Street; thence along Elm Street to the Northeast corner of lot 70; thence following the easterly line of Lot 70, and the northerly and easterly lines of Lot 83 to Business Route 1, thence along Business Route 1 to the intersection of Vine Street and Business Route 1; thence easterly along Vine Street to lot 112, Map 6; thence follow the westerly bound of Lot 112 to the Southeast corner of Lot 95; thence to the southwest corner of Lot 94; thence easterly to the southeast corner of Lot 90; thence along the westerly bound of Lot 90 to the centerline of Chapman Street; thence along Chapman Street to the southwest corner of Lot 11 Map 7; thence north along sideline of Lot 11 100 feet; thence easterly to the southeast corner of Lot 18A. Northerly along the East bound of Lot 18A to the centerline of Church Street; thence easterly

along Church Street to the Northeast corner of Lot 13; thence along the west, south and east lines of Lot 16 to the southeast corner of Lot 15; thence easterly along the north bound of Lot 13, crossing School Street and along the south bound of Lot 49, Map 7 to the centerline of the "Crick"; thence south along the stream to the southwest corner of Lot 48; thence following the southerly line of Lot 48 to its intersection with Lot 23, Map 8; thence continuing to a point of intersection with a line 200 feet from and parallel to Business Route 1; thence easterly along this line to its intersection with Lot 21; thence westerly to the centerline of Church Street; thence along Church Street to the southwest corner of Lot 7, map 8; thence along the west line of Lot 7 and across Lot 6 to the intersection of the north line of Lot 6 and 500 feet from the centerline of Business Route 1; thence northerly along this line 500 feet from and parallel to the centerline of said road to Lot 17, Map3; thence westerly to the shore of the Damariscotta River; thence southerly following the shoreline to the point of beginning.

## 2. COMMERCIAL

### a. Downtown Commercial (C1)

Beginning at the shore of Day's Cove and the north bound of Residential I; thence easterly along the northerly line of Residential I to its intersection with Business Route 1 and Bristol Road; thence to the southwest corner of Lot 84, Map 6; thence along the easterly and northerly lines of Lot 83 and the east line of Lot 70 to the center line of Elm Street; thence west along Elm Street to the southeast corner of Lot 41; thence northerly along the sideline of Lot 41 to Cottrill's Cove; thence westerly along the shore to the point of beginning.

### b. Other Commercial (C2)

Beginning at the intersection of Business Route 1 and Main Street; thence northerly along the boundary of the C1 District to the northeast corner of lot 83, Map 6; thence along the western and southern and eastern boundary of General Residential district (west of Business Route 1 to Lot 17, Map 3; thence continuing 500 feet west of Business Route 1 to the intersection with the southerly bound of Lot 32, Map 3; thence westerly along the southern bound of Lot 32, Map 3; thence northerly along the western bound of Lot 32, Map 3 to a point 500 feet south of the centerline of Belvedere Road; thence westerly 500 feet south of the centerline and parallel to Belvedere Road to the intersection with the eastern bound of Lot 33-1, Map 3; thence northerly to a point 500 feet north of Belvedere Road; thence easterly to the intersection with the western bound of Route 1; thence northerly following Route 1 to the intersection with the eastern side of the Midcoast Road; thence following Midcoast Road and the Center Street to the northwest corner of Lot 64E, Map 3; thence easterly to the northeast corner of Lot 64E; thence south to the intersection with lot 64C, thence easterly to a point 500 feet easterly of the centerline of Route 1; thence south following a line 500 feet from the centerline and parallel to Route 1 to its intersection with Business Route 1; thence southerly following a line 500 feet east of and parallel to Business Route 1 to the northerly bound of lot 14, Map 3, thence easterly to the northeast corner of lot 14; thence southerly following the easterly bound of lot 14 to the southwest corner of lot 12B, Map3; thence easterly in a straight line parallel to the northerly bound of lot 10, Map 3, crossing lot 7 Map 3 to the northeast corner of Lot 8, Map 3 (which is also the southwestern corner of Lot 12-4 Map 3), thence northerly along the eastern boundary



of Lot 7, Map 3 (which is also the western boundary of Lot 12-4 Map 3) to the northeasterly corner of Lot 12-4, thence easterly along the northerly boarder of Lot 12-4, Map 3 to a point about 325 feet to the east, thence southerly along a straight line (approximately parallel to the eastern boundary of Lot 7, Map 3) to the northeastern corner of Lot 8, Map 3 and then following the northerly bound of Lot 7-1, Map 3 to a point 200 feet east of the southwest corner of Lot 9, Map 3; thence southerly to a point 500 feet south of Biscay Road; thence westerly (parallel to and 500 feet from Biscay Road) to the easterly bound of Lot 67, Map1; thence southerly along the easterly bound of Lot 67, Map 1 to the southerly bound of Lot 67, Map 1; thence westerly along the southerly bound of Lot 67, Map 1 to the center line of Heater Road; thence southerly to the southeast corner of Lot 59, Map 1; thence westerly to the intersection with the point 1000 feet east of Business Route 1; thence southerly following a line 1000 feet east of and parallel to Business Route 1 to the intersection of the general Residential District (south of Business Route 1); thence westerly following the northerly bound of the Residential District to the point of beginning. Also included are the Lots 63, 64, 65 and 66 of map 9 and Lots 27, 29 and 30 of Map 11. Excluded from the C-2 District is the new lot 13A, Map 7 created by the gift of land given to the Town and defined in the new Municipal District.

### **3. RURAL DISTRICT**

Beginning at the westerly shore of Biscay Pond at the Bristol Town line; thence westerly along the town line to a point of intersection with the General Residential District (south of Business Route 1);thence northerly following the boundary of the General Residential District to its intersection with the southerly bound of District C2; Thence along the boundary of C2 north to it northerly terminus; thence westerly and southerly following the westerly boundary of C2 to its intersection with the northerly bound of General Residential District at Lot 17, Map3; thence westerly to the shore of the Damariscotta River; thence northerly following the shore of the Damariscotta River and Oyster Creek to the intersection with the Nobleboro town line; thence easterly along the town line to its intersection with the shore of Pemaquid Lake; thence southerly following the western shores of Pemaquid Lake and Biscay Pond to the point of beginning.

### **4. WIRELESS COMMUNICATIONS DISTRICT**

Beginning at the intersection of Route 1 and the northerly town line, proceed easterly along the town line a distance of 1000 feet; thence southerly parallel to and 1000 feet from Route 1 to the intersection of the northerly bound of Lot 10, Map 3; thence easterly along the north boundary of the C2 district to its easterly extent; thence southerly to the centerline of Biscay Road; thence westerly along Biscay road to the intersection of Business Route 1; thence north following Business Route 1 and Route 1 to the point of beginning.

### **5. MUNICIPAL DISTRICT**

Beginning at the Southeast corner of Lot 13A, Map 7, of the Town Tax Maps, 2003, proceed northerly along the easterly boundary of Lot 13A, Map7, to the northeast corner of the lot, thence westerly along the northerly boundary to the northwest corner of the lot and thence southerly along the west boundary to its intersection with Chapman street, thence easterly to the point of beginning.

## **ARTICLE 4 - GENERAL RESIDENTIAL DISTRICT**

**A. Purpose**

To preserve the physical, aesthetic, and social quality of Damariscotta's developed residential areas and to provide for areas within the Town for residential growth.

**B. Permitted Uses**

1. Single Family Dwellings
2. Two Family Dwellings
3. Mobile Homes
4. Accessory buildings and uses
5. Home Cultivation of Marijuana
6. Accessory Apartments:

As long as the requirements of Article 9.Q are met, accessory apartments are allowable under a permit from the Code Enforcement Officer (CEO). The CEO may forward an accessory apartment application to the Planning Board for review as a 'Conditional Use Permit' under the Site Plan Review Ordinance. NOTE: Accessory apartments are not allowed in overlay Shoreland Zones.

**C. Conditional Uses**

1. Home occupations
2. Professional offices
3. Multi-family dwelling units and condominiums
4. Rooming houses
5. Planned unit development
6. Antique Shops and Galleries

**D. Standards**

1. The following standards shall apply to all uses in the district.
2. The following minimum land area per dwelling unit shall apply unless modified by requirements of Article 7 herein or Article 15A of the Shoreland Zoning Ordinance.

Sewered:	10,000 square feet
Non-Sewered:	40,000 square feet

Setback Requirements:

*Front Yard:	20 feet
Side Yard:	15 feet
Rear Yard:	15 feet

Minimum Street Frontage:

Sewered:	75 feet
Non-Sewered:	100 feet

Maximum Building Height:	35 feet
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\* or the average of existing setbacks of abutting properties

**ARTICLE 5 - COMMERCIAL DISTRICTS**

**A. Purpose**

To provide general retail sales, service, and business space within the Town of Damariscotta in locations capable of conveniently servicing community wide and/or regional trade areas. To preserve the scale character, and economy of the Downtown in accordance with the Comprehensive Plan by implementing a 35,000 square foot size cap on retail development in all commercial districts, effective November 1, 2005.

**B. Downtown Commercial District (C1)**

**1. Permitted Uses**

- a. All uses permitted in the General Residential District.

**2. Conditional Uses**

- a. All conditional uses allowed in General Residential District except Planned Unit development.
- b. Retail and wholesale businesses and services establishments with no outside storage of materials.
- c. Rooming house, motels, hotels, and restaurants.
- d. Clubs and movie theaters.
- e. Banks.
- f. Service station garages.
- g. Accessory buildings and uses.
- h. Public buildings such as schools, recreational facilities, utility structures, and other community related uses.

**3. Standards:**

- a. The following standards shall apply to all uses in the District.

- b. Space Standards:

Minimum land area: 10,000 square feet or as required by Shoreland Zoning Ordinance Standards.

Setback Requirements: Front Yard:

- (1) Except for requirements under the Shoreland Zoning Ordinance Standards, for those lots with existing buildings, front yard setbacks shall be the same or greater than the setback of existing buildings on that lot. If a structure is removed as part of the project, the location of that structure may be considered as an existing building provided the permit for new construction remains valid.
- (2) For those lots with no existing buildings, the setback shall be the average setback of buildings on abutting properties.

Side and Rear Yard:

- (a) If walls adjacent to side lot lines on buildings on both the applicants and adjacent property are of noncombustible construction as defined in this ordinance, the setback from the property lines may be reduced to 0 feet.

- (b) If the conditions stated in 1) above are not met, then a minimum 10-foot buffer strip to the side or rear lot lines or a 20-foot separation distance to adjacent building shall be maintained.
- (c) Yards abutting other districts shall be at least 15 feet deep and have a landscaped buffer strip.

Minimum Street Frontage: none, other than Shoreland Zoning Ordinance Standards

Maximum Building Height: 40 feet

No single retail store whether located in a single building, a combination of buildings, single tenant space, and/or combination of tenant spaces shall exceed 35,000 gross square feet of floor area in the aggregate. This size restriction shall apply to new retail stores and expansion of existing retail stores, effective November 1, 2005.

c. Parking Standards

The Parking standards of the Site Review Ordinance as amended for this District shall apply.

**C. Other Commercial District (C2)**

1. Permitted uses:

- a. All uses permitted in Downtown (C1) District.

2. Conditional uses:

- a. All required to be conditional use in Downtown (C1) District except that Retail, wholesale and Service establishments may have outside storage within limits set by the Site Review Ordinance.
- b. Light manufacturing.
- c. All medical and medical related uses.
- d. Planned Unit Development
- e. Wireless Communication Facilities (within bounds of the wireless communication district)
- f. Adult Entertainment Establishments
- g. Marijuana cultivation facilities
- h. Marijuana products manufacturing facilities and medical marijuana manufacturing facilities
- i. Marijuana stores
- j. Registered caregiver retail stores and registered dispensaries
- k. Marijuana testing facilities and medical marijuana testing facilities

3. Standards.

- a. The following standards shall apply to all uses in the district.
- b. Space Standards:  
The following minimum land area per principal building or

dwelling unit shall apply unless modified by requirements of Article 7 herein or requirements of Article 15A of the Shoreland Zoning Ordinance.

Sewered:	10,000 square feet for the first dwelling unit and 6,000 square feet thereafter.
Non-Sewered:	40,000 square feet
Setback Requirements:	
*Front Yard:	20 feet
Side and Rear Yards:	15 feet (Except abutting the Municipal District they shall be 0 feet.)
Minimum Street Frontage:	100 feet
* or the average of existing setbacks of abutting properties.	
Maximum Building Height:	40 feet, except for wireless communication facilities which may be a maximum of 190 feet above the ground.

- c. Adult Entertainment Establishment Standards – See Article 12 for additional performance standards for these establishments.

Setbacks for Wireless Communication facilities. See Article 7, Wireless Communication District for setback requirements for those facilities.

No single retail store whether located in a single building, a combination of buildings, single tenant space, and/or combination of tenant spaces shall exceed 35,000 gross square feet of floor area in the aggregate. This size restriction shall apply to new retail stores and expansion of existing retail stores, effective November 1, 2005.

## ARTICLE 6 - RURAL DISTRICT

### A. Purpose

To allow a maximum diversity of uses, while still maintaining the essential rural character of this area.

### B. Permitted Uses

1. All uses permitted in the General Residential District
2. Agricultural and gardening businesses
3. Forest management activities
4. Accessory buildings and uses

### C. Conditional Uses

1. All conditional uses in the General Residential District.
2. Campgrounds.
3. Mobile Home Parks.
4. Uses related to Environmental Study and Education.
5. Veterinary hospital stables.
6. Wireless Communication Facilities (within the bounds of the wireless communication district).
7. Structures associated with municipal utilities.
8. Marijuana cultivation facilities

9. Marijuana products manufacturing facilities and medical marijuana manufacturing facilities
10. Marijuana stores
11. Registered caregiver retail stores and registered dispensaries
12. Marijuana testing facilities and medical marijuana testing facilities

**D. Standards**

a. The following standards shall apply to all uses in the district.

b. Space Standards:

Minimum land area per principal building or dwelling unit:

Sewered:	10,000 square feet
Non-Sewered:	80,000 square feet

or article 15A of the Shoreland Zoning Ordinance

c. . Setback Requirements:

Front Yard:	20 feet
Side Yard:	15 feet
Rear Yard:	15 feet

Setbacks for Wireless Communication facilities. See Article 7, Wireless Communication District for setback requirements for those facilities.

d. . Minimum Street Frontage:	200 feet
Maximum Building Height:	35 feet, except for wireless communication facilities which may be a maximum of 190 feet above the ground or water supply standpipes for water supply utilities, which may be 100 feet above the ground.

**ARTICLE 7- WIRELESS COMMUNICATION DISTRICT**

**A. Purpose**

To provide an area in Town for wireless communication facilities that does not have an adverse effect on the character of the community. This district is an overlay district encompassing portions of the C2 and Rural Districts. See those Districts for specific requirements.

**B. Conditional Uses**

a. Wireless Communication Facilities

**C. Standards**

a. The standards of the specific district (C2 or Rural) will apply except for the following requirements:

- 1.) Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements for the zoning district in which it is located, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas

outside the property boundaries if secured by an easement. The following exemptions apply:

- 2.) The setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
- 3.) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

## **ARTICLE 8 - MUNICIPAL DISTRICT**

### **A. Purpose**

To allow a maximum use of the land by the Town of Damariscotta for the purpose of Municipal offices.

### **B. Permitted Uses**

1. All occupancies and uses to serve the Municipal services of the Town. All occupancies and uses shall be subject to the Site Review Requirements of the Town.

### **C. Standards**

a. The following standards shall apply to all uses in the district.

b. Space Standards:

Minimum land area per principal building:

Sewered: 10,000 square feet

Non-Sewered: 40,000 square feet

Setback Requirements:

Front Yard: 20 feet

Side Yard: 0 feet

Rear Yard: 0 feet

Minimum Street Frontage: 200 feet

Maximum Building Height: 40 feet, except for wireless communication facilities which may be a maximum of 190 feet above the ground.

## **ARTICLE 9 - GENERAL PROVISIONS**

### **A. Conformance**

1. All buildings or structures hereinafter erected, altered, enlarged, or moved, and all uses the real property in the Town of Damariscotta shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which such building, structure, land or water area is located. The lawful use of real property existing at the time of the adoption of this Ordinance or any subsequent amendment may be continued as provided in this Ordinance.

a. Non-conforming uses shall be subject to the following provisions:

- 1). A non-conforming building or structure may be repaired, maintained, and improved, provided that there is no expansion of the non-conforming use.

- 2.) The purchaser of property that is a lawful non-conforming use may continue that use.
- 3) A non-conforming use may not be enlarged, or extended except as follows:
  - a. Expansion shall be limited to 30 % of the existing Building floor area or volume whichever is less building floor area and volume shall be as defined in the Damariscotta Shoreland Zoning Ordinance.
- 4) Whenever a non-conforming use is changed to a permitted use, such use shall not revert to a non-conforming status notwithstanding any other provisions of this Ordinance.
- 5) Any non-conforming use shall be presumed extinguished if it is abandoned or not used for a period of one year. The Board of Appeals may find this presumption does not apply because of extenuating circumstances beyond the control of the applicant or undue hardship.

**b. Undersized lots shall conform to the following criteria:**

- 1) A single lot of record, which at adoption of this Ordinance does not meet the area or width requirements, may be built upon provided that such a lot is at least 10,000 square feet in a sewerred area of town or 20,000 square feet in other areas of town, adheres to the Maine State Plumbing code as far as sewage disposal is concerned and structures must be in compliance with setbacks and other requirements as designated for the area by this and other ordinances.
- 2) Except for an approved subdivision, two or more contiguous lots in single ownership at the time of adoption of this Ordinance shall be considered a single parcel.





3. Multi family dwelling units
  - a. Multi-family (3 or more) dwelling units shall meet all of the following criteria:
    - 1). Lot area shall be equal to the following minimum requirements:
      - a). For lots, other than those in the C2 District, served by a private central collection system, the minimum area for 3 units shall be 60,000 square feet and an additional 10,000 square feet per dwelling unit for each unit thereafter.
      - b). For lots in the C2 District, the minimum area shall be as specified in Article 5.C.3.b, sewered.
    - 2). Lots for multi-family dwelling units shall meet all other dimensional requirements for single-family dwellings.
    - 3). . No building shall contain more than ten (10) dwelling units, except housing for the elderly associated with extended care facilities, which shall contain no more than 45 dwellings.
    - 4). . Multi family dwelling units shall submit and comply with the requirements of the Damariscotta Site Review Ordinance.

#### **G. Planned Unit Development**

##### **1. Purpose**

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed.

##### **2. Basic requirements**

Planned unit developments and cluster developments shall meet all of the following criteria:

- a. All planned unit and cluster developments shall meet all requirements for a residential subdivision.
- b. The minimum area of land in a planned unit development or cluster development shall be 10 acres.
- c. Any lot abutting a public road shall have a frontage and area no less than normally required in the District. On other than public roads, lot area and road frontage may be reduced by not more than 30% from the requirements of the District in which the proposed development is located provided that:
  - 1) No building lot shall have an area of less than 10,000 square feet.
  - 2) All lots except those abutting a circular turn-around shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turn-around may be reduced to 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.
- d. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District.
- e. Lots in the planned unit development or cluster development shall meet all other dimensional requirements for the District in which they are located.
- f. The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.
- g. Every building lot that is reduced in area below that amount normally required

shall about such common land for a distance of at least fifty (50) feet.

- h.
- i. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by a trust or association or by the Town which has as its principal purpose the conservation or preservation of land in essentially its natural condition.
- j. Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational conservation uses may be erected on the common land.

## **H. Home Occupations**

The following provisions apply to Home Occupations:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or structure accessory thereto.
2. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
3. No nuisance shall be operated, including but not limited to offensive noise, vibration, smoke, dust, odors, heat, or glare as defined in the Damariscotta Site Review Ordinance.
4. Bed and Breakfasts and other rooming houses are not considered home occupations.

## **I. Businesses and Service Establishments shall meet the requirements of the Site Review Ordinance.**

## **J. Campgrounds**

The following provisions apply to campgrounds:

1. An applicant for a campground permit must furnish specific information to the Planning Board concerning the campground, including a site plan illustrating the location and design of the sewage disposal and water supply systems, the means of fire fighting, and the type and location of roads proposed within the campground as well as other documentation submitted to the State for their Review.
2. In all other regards, the campground shall comply with the provisions of State law governing campgrounds.

## **K. Professional Offices**

In the General Residential District, the following provisions shall apply:

1. Offices shall exist within the conversion of existing buildings without substantial exterior alterations where practical Additions shall be compatible with the existing structure.
2. The maximum number of separate offices shall be three (3).
3. Offices shall comply with Site Review Ordinances.

## **L. Rooming & Bed and Breakfast Houses**

In the General Residential District, the following provisions apply:

1. No parking shall be located within the setback areas.
2. For the purposes of these standards, 2 rooms shall be deemed to be one dwelling unit.

Lot area per dwelling unit shall be equal to the following minimum requirements.

- a. Sewered 10,000 square feet
- b. Non-Sewered 20,000 square feet
3. Rooming houses shall meet all other requirements for single family dwellings.
4. One bathroom shall be provided for at least every 2 rooms of rent.
5. Provide one parking space for each unit.
6. Meet requirements of Site Review Ordinance.

**M. Outdoor Sale and Storage**

1. All outdoor sales and storage shall be stored in a neat and orderly manner.
2. Where this use abuts residential properties, materials shall be screened from ordinary view of occupants of these properties by a suitable fence, wall, or plantings.

**N. Corner Lots**

In districts where yards are required: Buildings located at the intersection of two streets shall meet the front yard requirements of both streets and the rear yard shall meet the side yard requirement of the side street.

**O. Conditional Use Standards**

Shall meet the requirements of the Site Review Ordinance and Shoreland Ordinance, in addition to any specific requirement of this ordinance.

**P. Wireless Communication Facilities**

Shall meet all the standards contained in the Site Review Ordinance in addition to the requirements of this ordinance.

**Q. Accessory Apartment**

1. Purpose:

The purpose of accessory apartments is to allow single-family house owners to create a living space for a relative, such as a grandparent, or to rent to another household, thus helping to enable the single-family house owner to remain in her/his home. The house owner may live in the accessory apartment and provide or rent the main house to a relative or another household. The single-family house owner may also use an accessory apartment to rent for additional income.

2 Regulations:

- a. The house owner must reside in either the main house or the accessory apartment.
- b. An accessory apartment may be created in one of the following ways:
  - (1) by using space within an existing detached single-family dwelling;
  - (2) by building an addition onto an existing detached single-family dwelling such that the addition is made part of the principal dwelling;

- (3) by using space within an existing or proposed accessory structure (to a detached single-family structure) that is within 50 feet of the single family dwelling;
  - (4) buildings existing prior to November 8, 2016 that are greater than 50 feet from the single family dwelling may be used for an accessory apartment provided no additions are added to the existing structure;
  - (5) new construction as part of a new single-family house.
- c. For the purposes of this section, the accessory apartment shall not be considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.
  - d. Accessory apartments shall be part of, or accessory to, a single-family house and cannot be sold as a condominium dwelling.
  - e. Accessory apartments may only be converted to a duplex unit under separate (condominium) ownership or (for those accessory apartments in a detached accessory building such as a garage) into a separately owned single-family dwelling only if all the density and dimensional requirements for a duplex or a single-family dwelling are met for both the original dwelling and the newly created dwelling.
  - f. If the single-family dwelling -unit is already connected to a public sewer system, both the single family dwelling and the new accessory apartment must be connected to the public sewer system. If the lot is served by on-site subsurface sewage disposal, the owner must demonstrate to the Town Plumbing Inspector that the use conforms to the State of Maine Minimum Lot Size law and that the sewage disposal system(s) for both the single family dwelling and the accessory apartment complies with the Maine Subsurface Wastewater Disposal rules.
  - g. In all cases, the accessory apartment shall be no larger than 40% of the finished and heated portion of the single-family house, or more than 650 square feet, whichever is less; and be no smaller in area than 320 square feet, and have no more than two bedrooms.
  - h. Any exterior alteration of the single family dwelling or accessory buildings or construction of an accessory building shall preserve the single family appearance, architectural style, and character of the original structure and shall be in harmony with the general appearance of the neighborhood. Any alteration shall preserve the front entrance of the original structure to preserve the single family character. A separate entrance for the accessory apartment may be created but shall be clearly secondary to the main entrance, such as but not limited to an entrance that is setback further from the road than the primary entrance.
  - i. At least one off-street parking space shall be available to the occupants of the accessory apartment. The visual impact on abutting residences from the accessory apartment parking area shall be minimized. Suggested aesthetic screening materials may include landscaping, vegetative buffering, wall or fence screening.

**R. Limit on Home Cultivation of Marijuana.**

No person shall be permitted to cultivate marijuana plants or seedlings on a parcel or tract of land on which he or she is not domiciled.

**S. Limit on Location of Marijuana Establishments.**

A marijuana establishment may not be permitted or operated within 1000 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior

high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.

## **ARTICLE 10 - ADMINISTRATION**

### **A. Jurisdictions**

1. The Board of Selectmen shall administer and enforce the provisions of this Ordinance and coordinate all actions of the Code Enforcement Officer, the Planning Board and Board of Appeals to maintain a documented trail of their actions on matters reviewed by them to substantiate proof for legal review.

### **B. Administration**

1. The Board of Selectmen shall annually, following the Town Meeting appoint a Code Enforcement Officer.

### **C. Powers and Duties of the Code Enforcement Officer**

1. The Code Enforcement Officer (CEO) shall have the following duties:
  - a. Examine preliminary plans
  - b. Act upon building permit applications received by the Town Office.
  - c. Refer permits requiring Site Review, Conditional Use, Flood and Shoreland approved to the Planning Board as required.
  - d. Inspect sites where building permits have been issued to insure compliance with this Ordinance.
  - e. Investigate complaints and report violations.
  - f. Keep written inspection reports and thorough records stored in the Town Office.
  - g. Issue violation notices.
  - h. Appear in court when necessary.
  - i. Offer advice upon request.
  - j. Participated in appeals procedures.
  - k. All powers conferred by state statute.
2. When there is a question concerning interpretation of this Ordinance, the Code Enforcement Officer shall refer to the Board of Appeals for interpretation.

### **D. Violations**

1. If the Code Enforcement Officer believes a violation of this Ordinance has occurred, he shall notify by certified mail the person(s) responsible for such violations indicating the nature of the violation and ordering the necessary action to correct it. He shall order discontinuance of illegal use of land, buildings, or structures, or of any unpermitted additions, alterations, of structural changes thereto; or discontinuance of any illegal activity.

### **E. Fines**

1. Any person, firm, or corporation violating a provision of this Ordinance shall be fined not more than \$100.00 for each day such violation exists. All fines shall inure to the benefit of the Town of Damariscotta

**F. Building Permits**

1. **Applicability.** The provisions of this section apply to all structure(s) constructed, reconstructed, enlarged, relocated or moved in the Town of Damariscotta. This Ordinance does not require permits for maintenance and repair, or for accessory structure(s) or addition(s) of less than 100 square feet. Except that, all accessory structure(s) or addition(s) of less than 100 square feet within the Shoreland Zone shall obtain permits.

The provisions of this Section shall apply to any change in ownership of any commercial enterprise within the Town of Damariscotta.

2. **Permits Required.** The owner of the property shall obtain a permit issued by the Code Enforcement Officer for all structure(s) constructed, reconstructed, enlarged, relocated in or moved to the Town of Damariscotta, prior to the fact.
  - a. **Application.** The application for the permit shall be in writing on a form available from the Municipal Office, and shall contain:
    - i. a description of any structure(s) prior to their construction, reconstruction, enlargement, or relocation in or movement to the Town of Damariscotta is contemplated;
    - ii. a description of the establishment of any commercial business in the Town of Damariscotta or change in a business establishment, regardless of the size of the floor area;

Each application shall contain a drawing of the structure(s) and a plan of the site shall accompany the application. The drawing shall include project dimensions, distances to property lines, names of abutters, roads, streets and bodies of water, location of sewer disposal and water supply. When required by the State Plumbing Code, the Code Enforcement Officer shall require evidence of adequate capacity of the septic system to support the structure(s) contemplated.

- b. **Permit Approval.** The Code Enforcement Officer, after receipt of the application, shall either issue the requested permit or transmit notice of refusal to the applicant within a reasonable time, not to exceed five (5) working days for residential applicants, and fifteen (15) working days for commercial applicants. The application shall be approved if all relevant ordinance requirements have been met. Notice of any refusal shall be in writing and shall state the reason therefore. All other permits required for the proposal shall be obtained prior to issuance of the permit.
    - c. **Modifications.** Any modifications to the description, drawing, or site plan required in Section 6 (a) of the proposed structure(s) shall require a revised permit application and a permit prior to beginning the work.
    - d. **Appeals.** An appeal to the Board of Appeals may be taken from an order issued by the Code Enforcement Officer or from his refusal to grant a permit. Such appeal

shall be filed within thirty (30) days of the date of the order being appealed, accompanied by a \$50.00 fee to cover the cost of appeal. The board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance or unsupported by weight of the evidence in the record.

- e. Duration of Permit. All building permits shall be void unless there is substantial completion of the project within three (3) years of the date of the permit. Construction authorized by a permit and which is not completed within three (3) years of the effective date of the permit shall not continue until another permit is obtained.
  - f. Conditional Use Permit. In cases where the CEO believes that a Conditional Use Permit is required, the CEO shall also provide a copy of his decision to the Planning Board.
  - g. Records. Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers and the Code Enforcement Officer.
  - h. Other Permits. Where plumbing or septic work is required to make a building habitable, no Building Permit shall be issued unless a Plumbing Permit has been previously obtained. All sewerage and water connections and systems must comply with the regulations of the Maine State Plumbing Code.
3. Fees. A fee payable to the Town of Damariscotta in accordance with the following shall accompany each application:
- a. Commercial or Industrial:
 

Under 10,000 square feet	\$0.30 per square foot
10,001 to 25,000 square feet	\$0.15 per square foot
More than 25,000 square feet	\$0.10 per square foot
  - b. Residential
 

	\$0.15 per square foot
	With a maximum fee of \$250.00
  - c. Accessory Structure or Addition (such as deck, garage, greenhouse, barn, etc.)
 

	\$0.10 per square foot
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  - d. Swimming Pool, (in-ground or above-ground)
 

	\$25.00
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  - e. After-the-fact Permit Fee:

If work is performed which requires a permit, but the permit is not obtained until after the



work has begun, in addition to any other fees and fines, the fees for such after-the-fact permits shall be two (2) times the regular permit fee or \$100.00, whichever is greater.

f. Variance and Conditional Use Hearing Fee:

For each Variance and Conditional Use hearing required, a fee will be charged to cover administrative and advertising expenses as follows:

administrative expenses	\$50.00
advertising fee	\$30.00

These fees are subject to adjustment as deemed appropriate by the Board of Selectmen after public hearing.

4. Proof of Compliance. No building shall be occupied after its construction, reconstruction, enlargement, or relocation in or movement to the Town of Damariscotta until a Certificate of Occupancy has been issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said Certificate after proper examination shows that all work performed is in compliance with the provisions of all State and Local codes.

## ARTICLE 11 - APPEALS AND CONDITIONAL USES

### A. Authority

1. All Appeals or applications for conditional Use Permits shall be based upon a written decision of the Code Enforcement Officer or the Planning Board.
2. Board of Appeals Authorization:
  - a. The Board of Appeals as established in the Town of Damariscotta Board of Appeals Ordinance shall hear and decide applications for variances and appeals in accordance with State law and the provisions of that Ordinance.
  - b. The Planning Board shall hear and approve, approve with modifications or conditions, or deny an application for a Conditional Use Permit. A Conditional Use Permit shall not be issued unless specific provision for such conditional Use is made in this Ordinance.
  - c. On request of the Board of Appeals, the Planning Board shall prepare an informational report on pending requests for a variance.

### B. Procedure

1. Application
  - a. These procedures and limitations apply to all appeals and requests for variances or conditional use permits. In all cases, a person aggrieved by a decision shall commence his appeal within 30 days after that decision is made. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and shall specifically set forth the grounds for the appeal.
  - b. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the Permit with the Planning Board on forms provided by the Town of Damariscotta. In order to describe the conditions adequately the applicant may be requested by the

Code Enforcement Officer or the Planning Board to supply the following information.

- 1) Detailed information to demonstrate compliance with the applicable standards or criteria.
- 2) Plans showing location of new and existing buildings, parking areas, traffic access, driveways, landscaping, open spaces.

## 2. Notification

- a. Publication: Within 30 days of the filing of an appeal or application for a variance, the Board of Appeals shall hold a public hearing in accordance with Section 4.D of the Board of Appeals Ordinance. The Board shall notify the Code Enforcement Officer and, in the case of an appeal, the Planning Board, at least 20 days in advance, of the time and place of the hearing. It shall publish notice of the hearing at least 10 days in advance of it in a newspaper of general circulation in the county.
- b. Notification of abutters: The Board of Appeals shall notify by certified mail, the appellant or applicant at least 10 days in advance of the hearing. The appellant or applicant shall be responsible for notifying all abutting property owners and owners of property within 500 feet of the property involved (even if the property is on the other side of the road) of the nature of the hearing and the time and place of the hearing. For the purpose of this section, abutting property owners shall include properties directly across a street from the property involved.
- c. The owners of property shall be determined on the basis of town tax records. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

## 3. Hearing:

- a. At any hearing, a party may be represented by agent or attorney. Hearings may be continued for good cause.
- b. The Code Enforcement Officer shall attend all hearings and may present to the Board all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
- c. The hearing shall proceed according to the By-Laws of the Board of Appeals.

## 4. Decision:

- a. A decision shall require an affirmative vote of a majority of the members in accordance with Section 3 of the Board of Appeals Ordinance.
- b. The Board of Appeals shall reach a decision at the initial or continued public hearing and shall inform, in writing, the appellant or applicant, the Code Enforcement Officer, the Planning Board (on appeals) and the Municipal Officers of its decision with the conditions of the approval, or reasons for its denial.

- c. Upon notification of the decision of the Board of Appeals, the Code Enforcement Officer, as instructed, shall immediately issue or deny a permit, with or without conditions, as prescribed by the Board of Appeals.

**C. Standards**

1. Variance

- a. A variance may be granted in accordance with Title 30-A Section 4353 by the Board of Appeals only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used are defined in accordance with Title 30-A Section 4353.
- b. A variance is not justified unless all elements are present in the case.
- c. As used in this Ordinance, a variance is authorized only for height, area, parking requirements and size of structures or size of yards or open spaces. Establishment of a use otherwise prohibited shall not be allowed by a variance. Financial hardship shall not constitute grounds for granting a variance.
- d. Variances for dimensions are not allowed within the Shoreland Zone.

2. Conditional Uses:

- a. The Planning Board may grant a conditional use upon presentation by the applicant of proof of the following:
  - 1) Certain Requirements Met: That the use requested meets the requirements of this Ordinance as set forth in Articles 1 through 8 and the requirements for the Damariscotta Site Review Ordinance.
  - 2) Effect not adverse: That the use requested will not have an adverse effect on the health, safety, or general welfare of the residents of the area or the general public. In making this determination, the Planning Board shall take into consideration the potential effect of the use on the environment from air, water, or soil pollution, noise, traffic, congestion, soil erosion, the burden on the sewage disposal, or water supply systems or other municipal facilities, services, or public ways, and any other relevant factors as set forth in Articles 1 through 8.
  - 3) Conditions attached to Conditional Uses: The Planning Board may attach such conditions as necessary to ensure that the above requirements are met.

**ARTICLE 12: ADULT ENTERTAINMENT ESTABLISHMENT DEFINITIONS AND STANDARDS:**

**A. DEFINITIONS:**

**ADULT AMUSEMENT STORE** means the same as ADULT BOOKSTORE.

**ADULT ARCADE** means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

**ADULT BOOKSTORE or ADULT VIDEO STORE** means a commercial establishment that utilizes at least 15% of the establishment’s floor space for display, sale, or rental, for consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas;” or instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities.”

**ADULT CABARET** means a nightclub, bar, restaurant, café, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

- a. persons who appear in a state of semi-nudity; or
- b. live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- c. films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
- d. persons who engage in “exotic” or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**ADULT ENTERTAINMENT ESTABLISHMENT** means the operation of adult amusement stores, adult video stores, adult bookstores, adult novelty stores, adult motion picture theaters, on-site video screening establishments, adult arcades, adult entertainment nightclubs or bars, adult spas, establishments featuring strippers or erotic dancers, escort agencies or other sexually oriented businesses.

**ADULT ENTERTAINMENT NIGHTCLUB OR BAR** means the same as ADULT CABARET.

**ADULT MOTEL** means a hotel, motel or similar commercial establishment that:

- a. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;” and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
- b. offers a sleeping room for rent for a period of time that is less than twenty-four

(24) hours; or

c. allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than twenty-four (24) hours.

**ADULT MOTION PICTURE THEATER** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**ADULT NOVELTY STORE** means the same as ADULT BOOKSTORE.

**ADULT THEATER** means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

**ADULT VIDEO STORE** means the same as ADULT BOOKSTORE.

**EMPLOYEE** means a person who performs any service on the premises of an adult entertainment establishment on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. “Employee” does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does “employee” include a person exclusively on the premises as a patron or customer.

**ESCORT** means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**ESTABLISHMENT** means and includes any of the following:

- a. the opening or commencement of any adult entertainment establishment as a new business;
- b. the conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
- c. the additions of any adult entertainment establishment to any other existing adult entertainment establishment; or
- d. the relocation of any adult entertainment establishment; or
- e. an adult entertainment establishment or premises on which the adult

entertainment establishment is located.

**ESTABLISHMENTS FEATURING STRIPPERS OR EROTIC DANCERS** means the same as ADULT CABARET.

**NUDE MODEL STUDIO** means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

**NUDITY or a STATE OF NUDITY** means the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

**ON-SITE VIDEO SCREENING ESTABLISHMENT** means the same as ADULT ARCADE.

**PERSON** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**PREMISES** means the real property upon which the adult entertainment establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the adult entertainment establishment.

**SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A principal business purpose exists if the services offered are intended to generate business income.

**SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS** means:

- a. the human male genitals in a discernibly turgid state, even if fully and opaquely covered;
- b. less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

**SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

**SUBSTANTIAL ENLARGEMENT** of an adult entertainment establishment means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on the date of enactment of this ordinance

## **B. STANDARDS:**

Adult Entertainment Establishments shall meet all of the standards contained in the Land Use Ordinance, Conditional Use Standards, Site Review Ordinance as applicable, and Additional Standards specific to Adult Entertainment Establishments as set forth below:

### **1. Purpose.**

It is the purpose of this ordinance to regulate adult entertainment establishments and related activities to promote the health, safety, and general welfare of the citizens of the municipality, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment establishments within the Town of Damariscotta. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

The Town hereby finds that adult amusement stores in communities in Maine and elsewhere are associated with a wide variety of deleterious secondary effects including, without limitation, personal and property crimes, prostitution, potential spread of disease, public lewdness and indecency, obscenity, illicit drug use and trafficking, negative impacts on the condition and value of closely-situated surrounding properties, urban blight, litter, and sexual assault and exploitation. The location of adult amusement stores in proximity to residences, schools, daycares, places of worship, recreational and other public parks, liquor licensees, and other incompatible land uses are of particular concern. These findings are supported by research and studies by municipalities and others across the Nation, reflected in a substantial published literature on the subject, including materials provided by Town Counsel for the Legislative body's review and consideration, which materials are incorporated herein by reference as part of the record of the adoption of the following

regulations for adult amusement stores.

The Town further finds that preventing the deleterious secondary effects associated with adult amusement stores through the adoption of content-neutral regulations of the times, places, and manner in which such establishments may be operated falls within the Town of Damariscotta's inherent police power as a municipal corporation and subdivision of the State of Maine, and its home rule authority granted by the Legislature pursuant to Title 30-A, Maine Revised Statutes, Section 3001, and serves the substantial governmental interest in preventing such deleterious effects. Finally, the proposed regulation is intended to be no greater than is necessary to achieve the purpose of preventing the deleterious secondary effects associated with adult amusement stores, and to allow for reasonable locations in the Town for such establishments.

## **2. Location Restrictions**

Adult entertainment establishments shall be a conditional use in accordance with Article V of the Town of Damariscotta Land Use Ordinance Section C and also provided that:

A. The adult entertainment establishment may not be permitted or operated within:

1. 1,500 feet of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
2. 1,500 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;
3. 1,500 feet of a public park or recreational area or private recreational facility which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities or a private entity;
4. 1,500 feet of another adult entertainment establishment.

B. An adult entertainment establishment may not be operated in the same building, structure, or portion thereof, containing another adult entertainment establishment.

C. For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult entertainment establishment is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected recreational facility or licensed child care facility.

D. For purposes of subsection (C) of this section, the distance between any two adult



entertainment establishment uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

### **3. Adult Entertainment Establishment Signage.**

- A. All signs shall be in accordance with any Ordinances or Regulations of the Town of Damariscotta relative to Signs.
- B. Notwithstanding anything to the contrary, an Adult Entertainment Establishment shall not be permitted more than one (1) sign advertising its business, which shall be an on-premise free-standing or attached wall sign only. No such sign shall:
  - 1. Be placed in any window, except that one sign no larger than one (1) sq. ft. may be placed on the door to state only the store's hours of operation and that admittance is for adults only;
  - 2. Be neon or internally-illuminated or contain any flashing lights, moving elements, or mechanically changing messages;
  - 3. Contain any depiction of the human form or any part thereof, whether by photograph, painting, drawing, silhouette, or pictorial representation;
  - 4. Contain any sexually explicit or suggestive language such as "nude dancing";
  - 5. Be located off-site;
  - 6. Have more than two display surfaces; or;
  - 7. Exceed twenty (20) sq. ft.
- C. Any sign located on the premises of a multi-unit commercial center such as a shopping center or plaza and identifying one or more of the businesses that comprise the center shall also comply with this subsection if such sign identifies an Adult Entertainment Establishment on the premises.

### **4. Amortization of Existing Adult Entertainment Establishments.**

- A. Any Adult Entertainment Establishment lawfully operating upon the adoption of this Ordinance that is in violation of this Ordinance shall be deemed to be a nonconforming use. This nonconforming use shall be permitted to continue for a period of twenty-four (24) months from the effective date of this Ordinance, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use may not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.
- B. An Adult Entertainment Establishment lawfully operating as a conforming use as of the effective date of this ordinance, shall not be rendered a nonconforming use by the subsequent location of a church, synagogue, or other house of religious worship, public or private elementary or secondary school, recreational facility, or municipal facility, within the distance limitations of this ordinance.

5. Conflicts. Notwithstanding the foregoing, if there is any conflict between this Section 12 and other Damariscotta Codes and Ordinances, the more stringent provisions shall apply.

6. Severability. If any section, phrase, sentence, or portion of this Section 12 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the

remaining portions thereof.

7. Retroactivity. The provisions set forth in this Section shall be effective, to the maximum extent permitted by law but subject to the severance clause herein, and shall be applied to all proceedings or applications not pending, and business activities not commenced, established, located or operating within the Town, as of August 20, 2014.

**ARTICLE 13: REPEAL OF EXISTING ORDINANCES:**

~~The enactment of this ordinance (November 16, 2016) hereby repeals the Minimum Lot Size ordinance enacted April 28, 1988, amended June 16, 1997 and repeals the Earth Change Notification Ordinance, enacted April 1, 1994 and amends the Land Use Ordinance of June 15, 2016.~~

The enactment of this ordinance hereby amends the Land Use Ordinance of November 16, 2016.

\_\_\_\_\_  
Ronn Orenstein, Chairman

\_\_\_\_\_  
Roberta Mayer

\_\_\_\_\_  
George Parker

\_\_\_\_\_  
James Cosgrove

\_\_\_\_\_  
Mark Hagar

Board of Selectmen  
Town of Damariscotta

Attest: A true copy of an ordinance entitled "Land Use Ordinance Damariscotta, Maine", as certified to me by the municipal officers of Damariscotta, Maine on November 16, 2016.

\_\_\_\_\_  
Michelle Cameron, Town Clerk, Damariscotta, Maine

**TOWN OF DAMARISCOTTA  
WARRANT FOR SPECIAL TOWN MEETING  
December 19, 2018**

**LINCOLN, SS**

**STATE OF MAINE**

**TO:** Jason Warlick, a Constable for the Town of Damariscotta in the County of Lincoln.

**GREETINGS:**

In the name of the State of Maine, you are hereby required to notify and warn the voters of the Town of Damariscotta, in said County, qualified by law to vote in Town Affairs, to assemble at the Damariscotta Municipal Building on 21 School Street in said Town, on Wednesday the 19th day of December, A.D. 2018 at 5:30 PM., then and there to act on Articles 1 and 2.

**ARTICLE 1.** To choose a Moderator to preside at said meeting.

**ARTICLE 2.** To see if the Town will vote to appropriate \$90,000 from the Town's unappropriated surplus to be used toward the cost of construction of a downtown restroom. If approved, the appropriation will increase the Town's portion of the cost of the project to \$161,000. Funding available for the project includes \$335,200 in private donations and a \$17,300 grant from the Maine Small Harbor Improvement Program. Project expenses are higher than the cost for construction on a Town-owned site due to the cost of purchasing the barbershop property and substandard soils and the cost of foundation work required for construction in the 1 percent flood zone. The Town's fund balance as of June 30, 2018 is \$ \_\_\_\_\_.

Given under our hands at said Damariscotta, Maine this 5th day of December, A.D., 2018.

\_\_\_\_\_  
**Robin Mayer, Chairman**

\_\_\_\_\_  
**Ronn Orenstein**

\_\_\_\_\_  
**Amy Leshure**

\_\_\_\_\_  
**Mark Hagar**

\_\_\_\_\_  
**Louis F. Abbotoni**

**Board of Selectmen  
Damariscotta, Maine**

**Attest:**

\_\_\_\_\_  
**Matthew Lutkus, Town Manager**

Masonry	64,960.00
Toilet Partitions	5,457.00
Accessories	4,175.00
Fire Protection	400.00
Trusses	3,720.18
Hancock Materials	28,712.20
Hammond Materials	5,630.26
Roofing Materials	1,508.69
Windows	Marvin Infinity: 4,671.42
Decking Materials	10,624.90
Insulation Materials	1,082.84
Framing/Construction Labor	44,800.00
Electrical	11,350.00
Mechanical	3,250.00
Plumbing	5,500.00
Clean Up Labor/Disposal	5,000.00
Final Clean	2,500.00
Excavation (PAVING REMOVED)	34,055.00
Landscaping	To Be Done By Town
Exterior Signage	3,500.00
Painting/Finishes (Interior/Exterior)	12,000.00
Public Safety	1,500.00
Dust Control	150.00
Traffic Control	1,500.00
Timber Piles	8,000.00
Dewatering	3,500.00
PVC Piping	3,250.00
Buried Utility	5,000.00
Permits	To Be Waived
Bonds/Insurance	3,500.00
Foundation	88,000.00 If Suspension eliminated: 38,000.00
Sub Total:	

AS Drawn (Marvin Windows, Full Concrete Work) : \$367,297.49

Remove Overhung Concrete @ Ramp: \$359,297.49

General Conditions@4% : 14,691.90

Profit + Overhead@4% : 14,691.90

Total Cost As Drawn: \$ 396,681.29

Overhung Slab Removed: \$388,681.29

Shorter Build Schedule : Cost reductions in General conditions and P+O.

Would be 2% instead of 4%

General Conditions @2%: 7,345.95

Profit+Overhead @2% : 7,345.95

Total Cost As Drawn: 381,989.39

Total Cost Remove Overhung Concrete@ Ramp: \$373,989.39

Not INCLUDED in the revised pricing;

Ed Hondson Masonry options shown BELOW

Trex Transcend Decking \$6600 vs Versadeck shown in proposal

Concrete @ ramp savings after reframing in PT : \$8,000.00 (SHOWN IN PRICING ABOVE)

#### ED HONDSOON COST SAVINGS IDEAS

Cameron,

Here are some options;

1. 2" insulation versus 2.5", save – 105.60 (Reduce cost of material by 105.60 per ½") e.g. 1.5" insulation, save – 211.20
2. Waterstruck modular brick versus Restoration, save – 272.25  
Old Port Full Range modular versus Restoration, save – 1,415.15
3. Use of Modular size brick allows for Pintle and Eye veneer anchors or Corrugated wall ties installed during CMU build due to similar bonding pattern  
Corrugated Wall Ties - non seismic/Ties versus Thermal 2-Seal Wing-nut anchors seismic, save – 773.00
4. Eliminate Seismic Wire option, save – 180.00
5. Install standard 6" Hot Dip Galv. Reinforcement wire versus Super Heavy Duty 3/16" x 3/16", save – 180.00

6. Install 3" Stainless 26 ga. Flashing at wall bottom versus 6" Copper Flashing, save – 782.80
7. Change Colored veneer mortar to Standard Gray, save – 418.00
8. Eliminate Granite veneer panels at foundation approx.. 156 SF save – 8,151.00 (Eliminating may also help to reduce CIP concrete wall thickness and cost)
9. Reduce Air Gap (incl. Insulation width) to minimum requirements and eliminate the need for brick returns at openings and reduce Granite Lintel and Sill widths, save – TBD

Possible ideas;

Changing partition walls to stud instead of CMU may reduce cost?

Reduce ceiling/roof height to eliminate a few courses of brick (3 courses of brick are currently buried under trim board)

Parging or spray-on cementitious product on foundation wall

I will be headed out at 3:30 today

Thanks,

Alan

Ed Hodsdon Masonry

Medomak Construction Inc. 207-231-1163