

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205 FAX: 829-2224

To: Steve Moriarty, Planning Board Chairman
From: William R. Shane, Town Manager
Subject: Medical Caregiver Overlay Zone
Date: November 14, 2018

On behalf of the Town Council, I will be presenting their request for the Planning Board to hold a Public Hearing and offer a recommendation on the Medical Marijuana Caregiver Overlay Zone.

As you know, a workshop was held with the Town Council's Ordinance Committee, members of the Board of Appeals, the Planning Board and Town staff, to discuss how the Town could conform to the new state laws regarding Medical Caregivers that will be in effect in early December.

From that meeting, the attached highlighted changes were made, zones of Town were agreed upon, and how to administer future permit requests for a Medical Caregiver. The attached Ordinance language and recommended Zoning Overlay Map changes should be part of your recommendation. Also, as part of the new state laws around marijuana, Registered Dispensaries 315-59.1 are no longer required.

The Town Council asks for your recommendation on the elimination of medical dispensaries presently only allowed in the OC- North Zone (315-12) of Town along the northern end of Route 1.

In summary, your recommendation should include:

Amendments to:

- § 315- 04 **Word Usage and definitions**
- § 315- 12 **Office Commercial North (OC-N) – elimination of Registered Dispensary as a use**
- § 315- 28.5 **Registered Caregiver Overlay District – adding a new Overlay Zone**
- § 315- 59.1 **Eliminating Registered Dispensaries from the Ordinance**
- Zoning Map Recommendation on approval of the **Medical Caregiver Overlay District** in portions of Highway Commercial (HC), Office Commercial –South (OC-S) and the Village Center Commercial (VCC)

**AMENDMENTS TO CUMBERLAND ZONING ORDINANCE
RE: REGULATION OF MEDICAL MARIJUANA REGISTERED CAREGIVERS AND
MEDICAL MARIJUANA DISPENSARIES**

§ 315-4 Word usage and definitions.

CAREGIVER

A person or an assistant of that person that provides care for a qualifying patient in accordance with 22 M.R.S.A. § 2423-A (2), as amended.

IMMATURE MARIJUANA PLANT

A nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

MARIJUANA CONCENTRATE

The resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

MARIJUANA PLANT

A plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants.

MARIJUANA PRODUCT

A product composed of harvested marijuana and other ingredients that is intended for medical use. "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.

MATURE MARIJUANA PLANT

A flowering female marijuana plant.

NONFLOWERING MARIJUANA PLANT

A marijuana plant that is in a stage of growth in which the plant's pistils are not showing or the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the plant.

QUALIFYING PATIENT

A person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S.A. § 2423-B, as may be amended.

REGISTERED CAREGIVER

A caregiver who is registered by the Maine Department of Administrative and Financial Services pursuant to 22 M.R.S.A. § 2425-A, as may be amended.

§ 315-12 Office Commercial North District (OC-N).

A. The following uses are permitted within the OC-N District:

~~(3) Registered dispensary subject to the provisions of § 315-59.1 and Chapter 229, Site Plan Review, of the Cumberland Code.~~

§ 315-28.5 Registered Caregiver Overlay District.

A. Purpose. The purpose of the Registered Caregiver Overlay District is to establish areas of Town where registered caregivers may operate, as well as to establish land use requirements for this use.

B. District. The Registered Caregiver Overlay District, as delineated on the official Town of Cumberland Zoning Map, is hereby designated as an overlay district in specified areas of the Town for the purposes designated herein. Properties in this Overlay District shall continue to be governed by the regulations applicable to the underlying zoning district except as specifically provided herein.

C. Standards and Review. In addition to the permitted uses allowed in the underlying zoning districts and notwithstanding anything to the contrary in the regulations for the underlying zoning districts, the following use is allowed in the Registered Caregiver Overlay District, subject to review and approval by the Code Enforcement Officer, in consultation with the Police and Fire Departments, subject to the standards set forth in this section:

(1) Registered caregiver. A registered caregiver, subject to the following standards:

(a) A caregiver must meet all applicable requirements of State law and must have all required State registrations and approvals.

(b) Each registered caregiver located on a site shall be allowed to cultivate no more than thirty (30) mature marijuana plants and 60 immature marijuana plants. There shall be no limit on the number of seedlings that may be cultivated.

(c) All cultivation or processing of marijuana shall take place in an enclosed, secure area that is equipped with locks or other security devices that only allow

the person authorized to cultivate and process the marijuana to enter the area. No processing or cultivation shall be visible from the exterior of the building in which the registered caregiver operation is located.

(d) A registered caregiver must provide control odors and emissions. Marijuana odor shall not be perceptible at the exterior of the building or at any adjoining property boundary. Appropriate ventilation and filtration systems shall be provided, including but not limited to air scrubbers and charcoal filtration systems. No smoke, debris, dust or other substances shall be allowed to exit the building.

(e) No signage shall be placed or otherwise used within **one thousand (1,000) feet from the property line of any preexisting public or private school, daycare or nursery school.** Signage must comply with all applicable requirements of State law and regulation, as well as the requirements of Section 315-63 of this Ordinance.

(f) The Fire Department may require the installation of smoke detectors, sprinklers or other safety devices when the Department determines that such devices are necessary due to the size, condition or age of the structure, or if there are other uses in the building.

(g) Security measures shall include, at a minimum, the following:

(i) Security surveillance cameras installed, recording and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises. All security recordings shall be preserved for at least 30 days by the registered caregiver. The registered caregiver shall provide the Police Chief or his/her designee with the name and functioning telephone number of a twenty-four-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the operation.

(ii) Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition.

(iii) Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Code.

(iv) Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

(h) A registered caregiver shall not operate a retail store as part of the caregiver operations.

(i) The hours of operation shall be limited to between 8:00 a.m. and 5:00 p.m.

(j) A marijuana caregiver shall provide one (1) on-site parking space for the caregiver and an additional space for each employee of the caregiver, in addition to two (2) parking spaces for patients.

§ 315-59.1 **Registered dispensaries. Reserved.**

~~Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, these performance standards, when enacted, shall govern any proposed registered dispensary for which an application has not been submitted and acted on by the Planning Board prior to February 10, 2014. The following standards apply to all registered dispensaries:~~

~~A. Location criteria:~~

~~(1) No medical marijuana dispensary shall be sited within 500 feet of the lot lines of any of the following:~~

~~(a) Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center;~~

~~(b) A State of Maine licensed child care facility; or~~

~~(c) A State of Maine licensed family home child care facility.~~

~~(2) The distance cited in this subsection shall be measured between the lot line of the proposed site for the registered dispensary and the lot line of the site of the use listed in Subsection A(1)(a) through (c) above at their closest points.~~

~~B. Hours of operation. Registered dispensaries may be open for business only between the hours of 8:00 a.m. and 5:00 p.m., locally prevailing time.~~

~~C. Signage and advertising. All signage and advertising for a registered dispensary shall comply with all applicable provisions of this Code. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.~~

~~D. Security requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:~~

~~(1) Security surveillance cameras installed, recording and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises; to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;~~

~~(a) All security recordings shall be preserved for at least 30 days by the medical marijuana dispensary. The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a twenty four hour on call staff person to whom the Town may provide notice of any operating problems associated with the medical marijuana dispensary.~~

~~(b) Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;~~

~~(c) Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Code; and~~

~~(d) Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).~~

~~E. Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.~~

~~F. On-site consumption of medical marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a registered patient, as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended, may consume medical marijuana within the enclosed building area of the premises if such consumption occurs via oral consumption (i.e., eating only). For purposes of this subsection, the term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary's entrance.~~

~~G. Visibility of activities; control of emissions; disposal plan.~~

~~(1) All activities of registered dispensaries, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.~~

~~(2) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.~~

~~(3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be~~

~~provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.~~

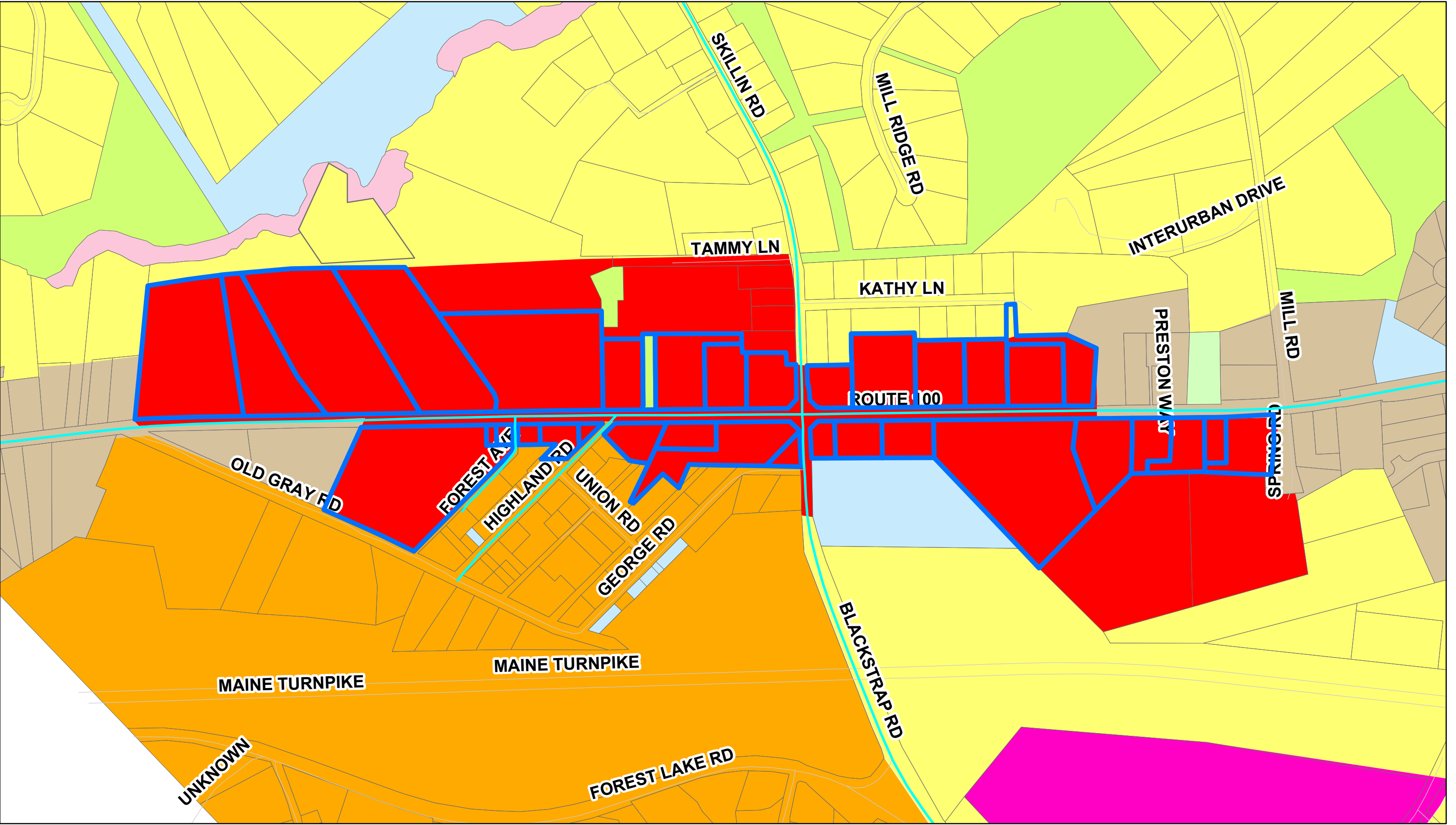
~~(4) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.~~

~~H. Sale of edible products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.~~

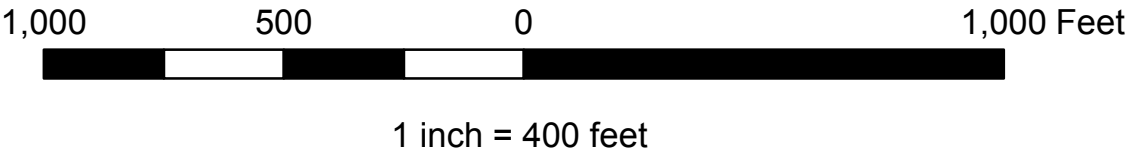
~~I. Other laws remain applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.~~

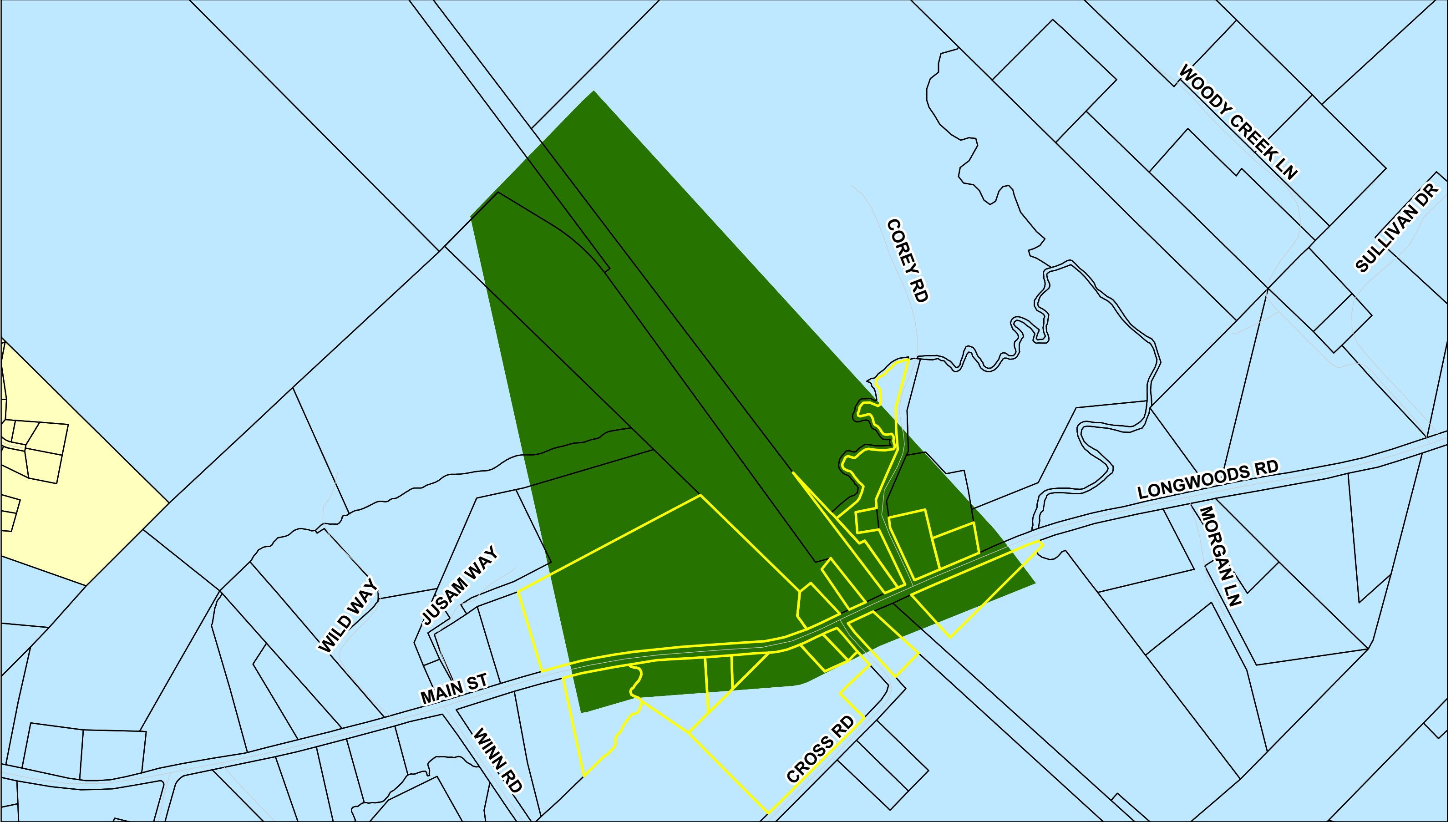
~~J. Maximum number. The maximum number of medical marijuana dispensaries in the Town shall be capped at one.~~

~~K. Application submission requirements. The applicant shall provide the Planning Board with documentation of any required state approvals for the operation of a registered dispensary.~~

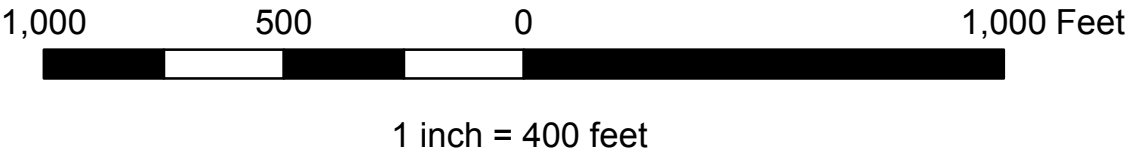


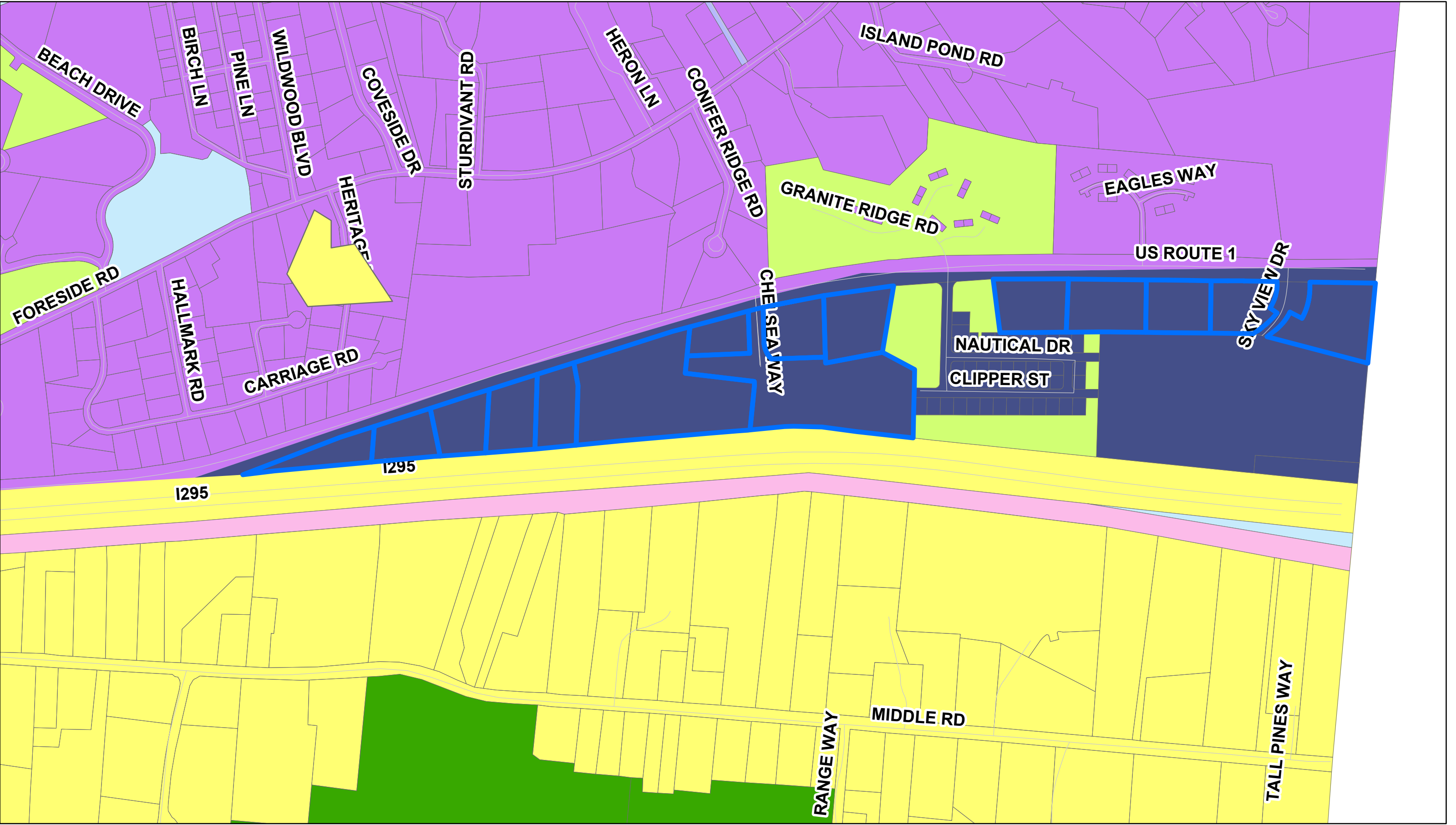
VCC Properties in Marijuana Overlay



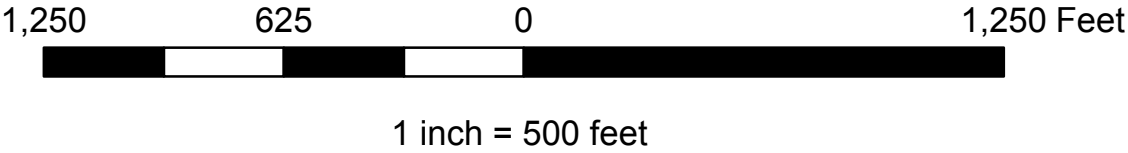


HC Properties in Marijuana Overlay





OCS Properties in Overlay



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§ 315-59.1 **Reserved.**