

RETAIL CHAIN BOX STORE ORDINANCE OF THE TOWN OF ATHENS, MAINE

SECTION 1. TITLE

This Ordinance shall be known as and may be cited as the "Retail Chain Box Store Ordinance of the Town of Athens, Maine", and will be referred to herein as the "Ordinance".

SECTION 2. PURPOSE

The purpose of this Ordinance is to provide a process and a set of standards for the regulation of box stores in order to:

- (A) Establish standards for location, structural integrity, and compatibility of box stores with the surrounding land, neighborhoods, and community;
- (B) Establish clear guidelines and standards for the exercise of municipal authority to regulate box stores;
- (C) Ensure protection of safe drinking water for local residents;
- (D) Prevent traffic congestion and safety hazards to drivers and pedestrians;
- (E) Conserve and enhance the unique natural beauty, irreplaceable natural resources, historical, natural, and man-made character and appearance of Wesserunett Valley and the Town of Athens;
- (F) Protect the scenic and visual character of the Town;
- (G) Protect property values of neighboring properties;
- (H) Benefit the well being of the local economy;
- (I) Ensure that all box stores located within the Town comply with the Ordinances of the Town;
- (J) Minimize negative impacts of facilities on surrounding land uses;
- (K) Promote the health, safety, and general welfare of the people of Athens.

SECTION 3. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution, and Title 30-A, Section 3001 and Title 30-A, Section 4352 of the Maine Revised Statutes Annotated. This Ordinance does not alter the requirement of any box store to comply with all other land use ordinances in effect in the Town of Athens. This Ordinance shall be applied in conjunction with any other applicable ordinance wherever possible; if any provision of this Ordinance conflicts with that of another ordinance, the most restrictive shall control.

SECTION 4. APPLICABILITY

Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of this Ordinance shall apply to all box store development proposals after the date of its enactment.

All box stores shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards.

Any upgrade, modification or structural change that materially alters the size, placement, output, or ownership of an existing box store shall comply with the provisions of this Ordinance.

All Applicants for the installation of any box store, modification of any existing box store, or installation or modification of associated facilities must obtain a Conditional Permit with written approval from the Board of Selectmen and prior to operating must obtain a Box Store Operating Permit from the Town.

SECTION 5. DEFINITIONS

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations, shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions set forth herein shall control and apply to all sections and subparagraphs herein. The terms used in this ordinance shall have the following meanings:

APPLICANT

Any individual, corporation, limited liability company, general partnership, limited partnership, estate, trust, joint-stock company, association of two or more persons having a joint common interest, or any other entity submitting an application for a Box Store Permit, site plan approval, building permit, pole permit, and/or any other related approval, for the installation, operation and/or maintaining of one or more personal wireless service facilities.

APPLICATION

All the necessary and required documentation and evidence that an applicant must submit to receive a Box Store Permit.

ASSOCIATED FACILITIES

Facilities associated with construction or operations of a box store, which include, but are not limited to, any installation of fixtures, lighting, fencing, culverts, generators or other backup power supplies, and any paving or other land modifications intended for use in construction or operations of a box store.

BOARD

The Select Board of the Town of Athens, also known as the Board of Selectmen.

BOX STORE

Any retail outlet in which several locations share a brand, ownership or central management, and standardized business practices, with a building size of greater than 1,000 square feet, and a parking lot with more than 5 parking spaces.

CONDITIONAL PERMIT

A permit issued by the Selectboard to a Box Store Permit applicant after processing a completed application that is required in order for the applicant to begin construction of a Box Store.

HISTORIC STRUCTURE

Any structure that is either listed on the National Register of Historic Places, or is eligible for inclusion in the National Register of Historic Places under 36 C.F.R. §63.1.

MHPC

The Maine State Historic Preservation Commission.

NEPA

The National Environmental Policy Act, 42 U.S.C. §4321 et seq, the Council for Environmental Quality's rules at 40 C.F.R. Chapter V, Subchapter A and the FCC's implementing rules at 47 C.F.R. Part 1, Subpart I.

NHPA

The National Historic Preservation Act, 54 U.S.C. §300101 et seq, and 36 C.F.R. Part 800 et seq.

NOTICE OF INCOMPLETENESS, NOTICE OF INCOMPLETE APPLICATION

A written notice, mailed by first class mail, to an applicant seeking an approval for the installation of a personal wireless services facility, wherein the sender advises the applicant that its application is incomplete, the wrong type of application, or is otherwise defective, and setting forth the reason or reasons why the application is incomplete and/or defective.

OPERATION PERMIT

The permit that is required for a Box Store to commence operations, issued by the Town to the Applicant for a Box Store permit after construction is complete and prior to operating.

ORDINANCE

The Retail Chain Box Store Ordinance of the Town of Athens

PERMITTEE

The person(s) or entity(ies) to which a Box Store Permit is issued.

PRIMARY OR SECONDARY RESIDENCE

Any dwelling unit that includes toilet or outhouse facilities, and facilities for food preparation and sleeping.

RELATED THIRD PARTIES

Any entity contracting with applicant for the design, construction, maintenance, use or operation of the proposed small cell installation, including such entity's officers, contractors, subcontractors, and agents or any subsidiaries, affiliates, successors in interest or legal assigns.

SCHOOL

A public school, private school, or public preschool program as defined in 20-A M.R.S. §1, or any other educational facility that serves children from prekindergarten to grade 12.

SECTION 106 REVIEW

A review under Section 106 of the National Historic Preservation Act.

STATE

The State of Maine.

TOWN

The Town of Athens, Maine.

SECTION 6. APPLICATION REQUIREMENTS

No box store shall be sited, constructed, reconstructed, installed, materially changed or altered, expanded, or used unless in conformity with this Ordinance.

Prior to the installation, construction, erection, relocation, substantial expansion, or material alteration of any box store the Town shall require a Permit, which shall be applied for in accordance with the procedures set forth within this Ordinance, unless otherwise provided herein below.

Applications for a Box Store permit shall be made to the Select Board, who shall initially determine whether or not the application is complete and/or free of defects upon receipt of the same.

If the Select Board determines that the application is defective or incomplete, they shall promptly mail a Notice of Incompleteness to the applicant, specifying what additional application materials are required in order to process the application.

SECTION 7. GENERAL STANDARDS

The following standards shall apply to all box stores, and shall be applied by the Select Board or Code Enforcement Officer during development review:

The following provisions shall apply to all box stores and associated facilities, and any redesign or expansion thereof, which shall require approval by the Select Board:

(A) General Requirements;

- (i) No more than one (1) box store shall be permitted or constructed on a single lot or combination of adjoining lots under the same common ownership or management;
- (ii) The box store owner/operator shall provide a contact person responsible for communicating with the Town for the duration of the box store's operation and shall provide and maintain a phone number and contact information for such person. This information shall be provided to the Town and all abutters of the box store;
- (iii) Any transfer or change of ownership or operation of a permitted box store shall be reported to the Town Select Board within 10 days. A reported transfer of change of ownership shall include evidence of the new owner's interest in the property and financial capacity to operate the permitted box store.

(B) Setbacks;

- (i) Any new box store must be set back a minimum of two hundred (250) feet from any property lines and from any public road, as measured from the edge of any box store or associated facility to the property boundary.
- (ii) Any box store must be set back a minimum of one thousand (1,000) feet from the property line of a parcel containing another box store.
- (iii) A box store and associated facilities must be set back a minimum of one thousand (1,000) feet from any structure existing at the time of application which is used as a primary or secondary residence, any historic structure, and any school.
- (iv) Property Line setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the closest edge or corner of the box store and associated facilities and any adjacent property lines.
- (v) Setbacks from residences shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the closest edge or corner of the residence structure and the closest edge or corner of the box store or associated facilities.
- (vi) Components of a box store or associated facilities shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(C) Size and Lot Coverage;

- (i) No more than one box store may be permitted or constructed on a single lot.

(D) Wooded Buffer;

- (i) Any box store shall include a natural, undisturbed wooded buffer extending two hundred (200) feet horizontally from all exterior property lines.
- (ii) The wooded buffer shall include a minimum of twenty-five (25) trees exceeding two (2) inches in diameter at four (4) feet above the ground along any one hundred (100) foot buffer length, as measured at the property line. Additional trees shall be planted where necessary to achieve this standard and shall be of the same species as existing trees in the immediate area. Newly planted trees within the buffer shall be a minimum of one and one-half (1.5) inches in diameter at four (4) feet above the ground and shall be placed so as to screen the box store from view from adjacent properties or public or private ways. A wooded buffer is not required at vehicular entrances, utility right of ways, and similar required openings.
- (iii) The wooded buffer shall be maintained or planted to visibly separate a box store from adjacent properties, roads, and water bodies.

(E) Topsoil and Erosion Control;

- (i) Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the box store and associated facilities. Except for normal thinning, landscaping, and cutting of trees for safety purposes, existing vegetation shall be left intact to prevent soil erosion.
- (ii) Removal of mature trees shall be avoided to the greatest extent possible. Native, pollinator-friendly seed mixtures shall be used to the extent possible.
- (iii) General Use herbicides and pesticides shall be minimized, and shall be prohibited within 500 feet of any land regulated by Shoreland Zoning and within 500 feet of any primary or secondary residence or school.
- (iv) No prime agricultural soil or soil from Farmland of state-wide significance, or significant volume of topsoil shall be removed from the site for installation of the box store or associated facilities. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations. The developer shall take measures to correct and prevent soil erosion in the proposed development.
- (v) Erosion and sediment control installation shall be inspected and approved by the Code Enforcement Office before any earth moving and/or construction shall commence. Best Management Practices for Erosion and Sediment Control as established by the Maine DEP shall be implemented by the box store developer.
- (vi) Construction of a box store shall commence no earlier than May 1st and shall cease no later than October 31st of each year. The Code Enforcement Officer shall determine that the area has been stabilized for the winter. Permanent stabilization (90 percent vegetation) shall be reached thirty (30) days after construction has been completed.

(F) Design and Construction;

- (i) The layout, design, installations, and ongoing maintenance of a box store shall comply with all applicable federal, state, and local codes, including applicable building codes and fire and life safety requirements.
- (ii) A Box Store must shield lighting to the maximum extent possible to prevent light pollution, traffic hazards, and nuisances to neighbors.
- (iii) Proposed site re-grading shall be kept to the minimum amount necessary.

(G) Maintenance;

- (i) The box store owner/operator shall maintain all box store and associated facilities in good repair and operating condition, consistent with industry standards for the duration of the box store permit.

(H) General Safety;

- (i) The facility must be designed to provide adequate access, parking and circulation for service and emergency vehicles, as determined by the Select Board in consultation with the Fire Chief.
- (ii) At least one (1), twenty (20) foot wide, all-weather access way must be provided from a public way to the box store. The access way must include appropriate turning areas and turnaround to facilitate access by emergency vehicles.

SECTION 8. PERMIT APPLICATION REQUIREMENTS

The application for a Box Store Conditional Permit shall include the following information:

- (A) The name and addresses of owner and operator along with a copy of the Lease Agreement.
- (B) Name, address and contact information of the project proponent, project proponent agent and all co-proponents, funders, investors or property owners, if any, demonstrating their consent to the application and the use of the property for the box store;
- (C) A description of the owner of the box store and detail of qualifications and track record of the owner and operator to run the facility;
- (D) Proof of financial capacity to construct and operate the proposed facility;
- (E) Survey of proposed site by a licensed Maine surveyor, including rights of way and easements;
- (F) Blueprints or drawings of the box store showing the proposed layout of the system, the distance between the box store and associated facilities and all abutting property lines;
- (H) A map showing the box store property lines and the property lines of any primary or secondary residences and schools located within 1,000 feet of the subject property;
- (I) A site plan showing property lines, the location of the box store and associated facilities, and the location and setback of any roads;
- (J) Locations of wetlands and waterbodies, shoreland zones, floodplains or well-based head protection areas within 500 feet of the box store, if any;
- (K) Locations of important plant and animal habitats identified by the Maine Department of Inland and Fisheries and Wildlife within 500 feet of the box store, if any;
- (L) Locations of any historical structures and historic sites, including cemeteries, within 1,000 feet of the property line of the box store, if any;
- (M) Scaled plans of the box store showing proposed changes to the landscape of the site, including grading; vegetation, clearing and planting; all screening, fencing, lighting, structures and arrays; property line metes and bounds; all water-related features onsite and in the vicinity, including water courses and bodies, wells, springs, wetlands, flood hazards areas and vernal pools; the location of all perimeter fencing and access roads; all existing tree lines, rock outcropping, trails, roads, fences, buildings, structures and foundations; all above or below-ground utilities or transmission lines; and the locations of any deer wintering areas on site;
- (N) Vegetation control plan, specifying type of use of herbicides, fungicides, or pesticides, if any. The plan shall include efforts to promote beneficial flora and fauna (e.g. bees, butterflies, etc.) as well as a commitment to limiting or avoiding use of potentially toxic pest-control substances (e.g. pesticides, herbicides, fungicides, and/or insecticides);
- (O) Property operation and maintenance plan that describes continuing box store maintenance and property upkeep, such as road maintenance, building maintenance, and snow removal;
- (P) A stormwater management plan, certified by a licensed Maine engineer, that demonstrates stormwater from the box store will infiltrate into the ground beneath the box store at a rate equal to that of the infiltration rate prior to the placement of the system.
- (Q) A construction plan and timeline, identifying known contractors, site control and anticipated on-line date;
- (R) If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner and any other responsible party with regard to the box store and the life of the agreement;
- (S) A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property;
- (T) An emergency management plan for all anticipated hazards;
- (U) A Waste Stream Management Plan that ensures prevention of litter and groundwater contamination;
- (V) A complete fire safety plan that includes a general description of the box store for purposes of ensuring the facility is taking necessary steps to prevent fire dangers and to ensure that the Fire Department is fully informed and prepared in case of a fire. The Fire Safety Plan shall specify how the facility operation will be in compliance with NFPA 30 Flammable and Combustible Liquids Code, NFPA 30B Aerosol Products, NFPA 43D Storage of Pesticides, NFPA 72 Fire Alarm and Signaling Code standards for fire alarm system installation, testing, and maintenance, NFPA 101 Life Safety Code, NFPA 231 General Storage Standards, NFPA 321C Rack Storage Standards, and NFPA 430 Liquid and Solid Oxidizers standards. The fire safety plan must include, but is not limited to, the following:
 - (i) Location of all Fire Safety Plan documents;
 - (ii) Location of the facility's alarm panel;
 - (iii) List of emergency contacts;
 - (iv) Specific responsibilities assigned to designated personnel;

- (v) Listing, description, and location of any hazardous materials and flammable materials, including batteries;
- (vi) Listing, description, and location of any fuel tanks;
- (vii) Building layout, including location of exits, alarms, aisles, and safety plan to ensure fire safety measures are maintained during operations of the facility;
- (viii) Location of Knox Box;
- (xiii) Description of plan for regular testing and maintenance of fire suppression and detection systems to ensure they remain operational during an emergency;
- (xiv) Location(s) and type(s) of backup power supplies, if any.

(W) A complete traffic safety plan, which shall include:

- (i) An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours;
- (ii) A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the road giving access to the site and neighboring roads which may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates used shall be the mean value reported in Table 3 of Development and Application of Trip Generation Rates, Kellercro, Inc., published by the Federal Highway Administration, January 1985.
- (iii) A description of internal circulation and proposed on-site parking, showing how vehicles would enter and exit via the main access driveways and identify any on-site or offsite circulation obstacles. Identify the need for signal controls using traffic signal warrants specified in the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD).

(X) A complete security plan, which shall include:

- (i) Location of Security surveillance cameras installed to monitor all entrances, and the common areas of the adult use cannabis facility, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the box store. All security recordings shall be preserved for at least 45 days by the adult use cannabis facility and be made available to law enforcement upon request for inspection;
- (ii) Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
- (iii) A locking safe, permanently affixed to the premises, that is suitable for storage of all cash stored at the box store;
- (iv) A description of any types and quantities alcohol that will be sold at the box store, and location of alcohol storage and sales.

SECTION 9. APPLICATION AND REVIEW PROCESS

(A) A box store applicant must apply for and receive approval in the form of a box store Conditional Permit issued by the Board of Selectmen, prior to commencing construction of the facility. The box store may not commence operations without also obtaining a box store Operation Permit.

(B) Prior to submitting an application for a box store Conditional Permit and the start of the review process, a pre-application conference with the Board of Selectmen shall be held.

(C) The Applicant shall submit one original application and one copy, complete with all required supporting information and the appropriate application fee.

(D) The application shall include a list of abutting property owners with addresses, a copy of the notice to the abutters specifying the location, size and general description of the project, along with the return receipts showing proof of notice to the abutting property owners by certified mail.

(E) In order for the Town to be more fully informed about the site, the Board of Selectmen and Code Enforcement Officer may schedule a site walk. The Applicant shall delineate property boundaries as well as the locations of proposed improvements such as buildings, generators, entrance road, etc. with appropriate flagging.

(F) Once an application is deemed to be complete, the project will be reviewed by the Code Enforcement Officer and Board of Selectmen for compliance with the Ordinance standards and a Public Hearing will be scheduled.

(G) Within thirty days of the submission of the permit application to the Town, the Applicant will be notified in writing if their application is complete or incomplete. If it is incomplete, a list of outstanding items will be included in the notification letter. Each time revisions are submitted on an incomplete application the Board of Selectmen has another thirty days to review the revised materials to make a determination of completeness.

SECTION 10. PUBLIC HEARING

The Board of Selectmen shall hold a Public Hearing on a box store application as follows:

- (A) The public hearing shall be held within thirty days after the application for a box store permit is deemed complete. This period may be extended for up to sixty days by vote of the Board of Selectmen;
- (B) The notice of the date, time and place of the Public Hearing shall be posted in at least two conspicuous, public places in the town at least seven days prior to the hearing;
- (C) The notice of the date, time and place of the Public Hearing shall be mailed by first-class mail to the Applicant, at least seven days prior to the hearing.
- (D) The notice of the date, time and place of the Public Hearing shall be mailed by first-class mail to all abutting property owners as determined from the current tax assessment data, at least seven days before the public hearing. The Board of Selectmen shall maintain a list of all property abutters mailed a notice in the application file. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board of Selectmen to schedule another hearing.
- (E) The costs of the Public Hearing notice mailing shall be paid by the Applicant.
- (F) The Board of Selectmen may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

SECTION 11. FIRE DEPARTMENT REVIEW

- (A) After submittal by the applicant of a complete application, the Select Board shall transmit the application packet to the Fire Chief. The Fire Chief shall review the application for compliance with objective health and safety standards related to fire hazards, including but not limited to all applicable provisions in NFPA 1, Fire Code, Chapter 52, and NFPA 70, National Electrical Code, Article 706. The Fire Chief shall inform the Select Board in writing of the Chief's conclusions and any recommended conditions for public health and safety.
- (B) The Fire Chief has the explicit authority to select and retain an independent consultant with expertise and/or specialized training in fire safety and fire hazard mitigation and prevention satisfactory to the Fire Chief in connection with any permit application. The Fire Chief may request independent consultant review on any matter committed to Fire Department review or approval. Subject to applicable law, in the event that the Fire Chief elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. The same procedures for fee deposits, cost reimbursements and refunds to the applicant relating to retaining a consultant as described in this Ordinance shall be applicable to independent consultant review required by the Fire Chief. If the applicant plans to install systems such as Energy Storage Systems (ESS) that require safety training or fire suppression equipment that the Athens Fire Department does not currently possess, the applicant will be responsible for providing training, equipment, and housing for use and maintenance of required equipment. If the Athens Fire Department has Mutual Aid Agreements with Fire Departments from surrounding towns, and those towns lack training necessary to provide adequate fire protection from the applicant's equipment, the applicant shall provide safety training for those Departments.

SECTION 12. PERFORMANCE GUARANTEE

- (A) With submittal of the application for a Box Store Operation Permit, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:
 - (i) Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account, or;
 - (ii) A performance bond payable to the Town issued by a surety company, approved by the Select Board, or;
 - (iii) An irrevocable letter of credit from a financial institution establishing funding for the construction of the box store, from which the Town may draw if construction is inadequate, approved by the Select Board.
- (B) Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction;
- (C) Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a

certificate of deposit. For any account opened by the permittee, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the permittee unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the permittee and the amount withdrawn to complete the required improvements;

(D) Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the permittee, and the procedures for collection by the municipality. The bond documents shall specifically reference the box store for which approval is sought;

(E) Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the box store and may not be used for any other project or loan;

(F) Conditional Agreement. The Board, at its discretion may provide for the permittee to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees;

(G) Release of guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Consulting Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested;

(H) If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the CEO shall so report in writing to the Select Board, and the permittee. The Select Board shall take any steps necessary to preserve the Town's rights;

(I) Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by these regulations and for the construction of the roads.

SECTION 13. PERMIT FEE

An application to the Town for a box store Operation Permit shall be accompanied by a \$250.00 Permit Application fee, plus a performance guarantee as described in Section 12.

SECTION 14. RENEWAL OF PERMIT

A box store permittee must apply annually for renewal of its Operation Permit. Any additional expenses incurred by the Town to ensure compliance with Board approval and the provisions of this Ordinance that are greater than the Operation Permit fee shall be reimbursed to the Town before a renewal license will be issued.

Areas of review shall include, but are not limited to, the following:

- (A) Proper Fire Safety Plan implementation;
- (B) Proper Security Plan implementation;
- (C) Proper installation and maintenance of all safety systems;
- (D) Proper maintenance of associated facilities;
- (E) Proper maintenance of any fuel tanks;
- (H) Proper storage and disposal of any potentially hazardous materials;
- (I) Proper lighting;
- (J) Proper vegetation maintenance;
- (K) Proof that all required state or federal licenses or permits are current.

SECTION 15. RENEWAL FEE

A renewal box store Operation Permit application accompanied by a fee of \$250.00 must be submitted annually. A review by the CEO is required for the renewal of the Operation Permit.

SECTION 16. PERMIT TRANSFER

The owner or lessee of an approved box store may transfer the Operation Permit to another owner or lessee upon approval of the Board provided the following conditions are met:

- (A) The new owner or lessee shall submit a signed and notarized statement that they will adhere to the conditions and specifications of the Operation Permit;
- (B) The new owner or lessee shall submit documentation that performance guarantees in compliance with this Ordinance have been obtained;
- (C) The new owners or lessees shall conform to all construction, site development, uses, and conditions as specified in the original approval granted by the Board of Selectmen.
- (D) The Board may require as a condition of approval for a box store Permit holder to transfer the Operation Permit to another owner or lessee that any new owner or lessee meet with the CEO or designee to document that the facility is in compliance with all applicable requirements of this ordinance and Board approval.

SECTION 17. TRANSFER FEE

A transfer application fee in the amount of \$250.00 shall be submitted with any transfer request to the Board. The new owner or lessee will be responsible for any additional expenses incurred by the Town to ensure compliance with this Ordinance that exceed the transfer application fee.

SECTION 18. INSPECTIONS AND MAINTENANCE

- (A) The box store owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, vegetative screening, fences, landscaping and plantings and integrity of security measures. The box store must be properly maintained and be kept free from all hazards, including but not limited to faulty wiring, loose fastenings, spillage of potentially hazardous liquids, being in an unsafe condition or detrimental to public health, safety or general welfare.
- (B) The owner or operator shall be responsible for the cost of maintain the box store and any access road(s), including regular plowing of snow to maintain road access.
- (C) Emergency phone number shall be posted in case of emergency at the box store.
- (D) The operator shall report to the Board of Selectmen and Fire Chief within 24 hours of any spillage of hazardous fluid to the ground surface. The operator is responsible for any costs associated with cleanup of the fluid and remediation necessary to prevent groundwater contamination and returning the land to pre-spill conditions.
- (E) Site access shall be maintained to a level acceptable to the Fire Chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the box store and any access road(s), including regular plowing of snow to maintain road access.
- (F) The CEO shall have the right to perform a non-emergency inspection upon giving seven-day notice to the owner or operator. The CEO shall have the right to perform an Emergency inspections with no notice to the owner or operator, in the event that an Act of God or other disaster has occurred which could be reasonably believed to have created a fire danger or public safety risk.

SECTION 20. APPLICABILITY

Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of this Ordinance shall apply to any box store modified or installed after the date of its enactment.

All Box Stores and associated facilities shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards.

Any upgrade, modification or structural change that materially alters the size, or traffic flow of an existing box store system shall comply with the provisions of this Ordinance.

SECTION 21. INTERPRETATION

The provisions of this Ordinance shall be construed as minimum requirements. More stringent provisions may be required if it is demonstrated they are necessary to promote the public health, safety and welfare. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

SECTION 22: VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by courts to be invalid, such a decision shall not invalidate any other section or provision of this Ordinance.

SECTION 23: EFFECTIVE DATE

This Ordinance is effective as of March 8, 2025, the date upon which it received approval by the majority of voters at Town Meeting. This Ordinance shall remain in effect until terminated or amended by a majority vote of a Town Meeting.