



**GARDINER CITY COUNCIL  
AGENDA ITEM INFORMATION SHEET**



<b>Meeting Date</b>	03/04/2020	<b>Department</b>	Code Enforcement
<b>Agenda Item</b>	4.1 Second Read and Possible Approval of Proposed Amendments to the Land Use Code/Addressing the Treatment of Marijuana Establishments		
<b>Est. Cost</b>	n/a		

**Background Information**

This agenda item is the second read and possible approval addressing the proposed amendments to the Land Use Code regarding the Treatment of Marijuana Establishments.

The following amendments are being proposed:  
 Section 17; Definitions  
 Section 7.6.3 Commercial Uses  
 Section 7.6.4 Industrial, Wholesale & Transportation Uses  
 Section 10 Special Activity Performance Standards to create a new section 10.28  
 Section 6.2.3.2 Activities Subject to PB Review to add a new section 6.2.3.2.9

A full copy of the proposed amendments is attached.

Planning Board Chair Debby Willis will be present to help facilitate the discussion.

<b>Requested Action</b>	'I move to approve and adopt the proposed amendments to the Land Use Code/Addressing the Treatment of Marijuana Establishments, as presented, and to waive the publication of the amendments in the newspaper (as allowed by City Charter Article 11 Section 9.)'
<b>City Manager and/or Finance Review</b>	The City Manager recommends the above action.
<b>Council Vote/ Action Taken</b>	
<b>Departmental Follow-Up</b>	City must update ordinance and website on effective date (30 days after approval). City Clerk must publish as per Charter Article II Section 9.

<b>City Clerk Use Only</b>	1 <sup>st</sup> Reading <u>02/19/2020</u>	Advertised <u>02/11/2020</u>	<b>EFFECTIVE DATE</b> <u>04/03/2020</u>
	2 <sup>nd</sup> Reading <u>03/04/2020</u>	Advertised <u>04/18/2020</u> w/in 15 Days	
	Final to Dept <u>                    </u>	Updated Book <u>                    </u>	Online <u>                    </u>

## Proposed Amendments to the Land Use Code To Address the Treatment of Marijuana Establishments

Proposed additions to the Code are underlined;  
proposed deletions are ~~struck-through~~.

1. Amend Section 17 of the Land Use Ordinance to add in proper alphabetical order definitions of Marijuana Establishment, Medical Marijuana Cultivation Facility – Tier 1, Medical Marijuana Cultivation Facility – Tier 2, Marijuana Cultivation Facility – Tier 3, Marijuana Cultivation Facility – Tier 4, Marijuana Products Manufacturing Facility, Marijuana Testing Facility, Marijuana Retail Store, Medical Marijuana Registered Caregiver Retail Store, Medical Marijuana Registered Dispensary, Marijuana Nursery Cultivation Facility, Marijuana Plant – Immature, Marijuana Plant – Mature, and Marijuana Seedling to read as follows:

- **Marijuana Establishment:** Any use or facility that is a Medical Marijuana Cultivation Facility – Tier 1 or Tier 2, a Marijuana Cultivation Facility – Tier 3, a Marijuana Cultivation Facility – Tier 4, a Marijuana Products Manufacturing Facility, a Marijuana Testing Facility, a Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility as defined by this ordinance.
- **Medical Marijuana Cultivation Facility – Tier 1:** An establishment registered with the State of Maine for the cultivation of medical marijuana by a Registered Caregiver in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of not more than thirty (30) mature marijuana plants, not more than sixty (60) immature marijuana plants and any number of marijuana seedlings.
- **Medical Marijuana Cultivation Facility – Tier 2:** An establishment registered with the State of Maine for the cultivation of medical marijuana in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of mature marijuana plants with a plant canopy of not more than two thousand (2,000) square feet.
- **Marijuana Cultivation Facility – Tier 3:** An establishment licensed by the State of Maine for the cultivation of medical marijuana in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use marijuana in accordance with the rules



established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature marijuana plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

- **Marijuana Cultivation Facility – Tier 4:** An establishment licensed by the State of Maine for the cultivation of medical marijuana in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use marijuana in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature marijuana plants with a plant canopy of more than seven thousand (7,000) square feet.
- **Marijuana Products Manufacturing Facility:** An establishment licensed by the State of Maine as a Tier 1 or Tier 2 medical marijuana products manufacturing facility in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine as an adult use marijuana products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.
- **Marijuana Testing Facility:** An establishment licensed by the State of Maine as a medical marijuana testing facility in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine as an adult use marijuana testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.
- **Marijuana Retail Store:** An establishment licensed by the State of Maine as an adult use marijuana store in accordance with the rules established under Title 28-B M.R.S. Chapter 1.
- **Medical Marijuana Registered Caregiver Retail Store:** An establishment licensed by the State of Maine as an Medical Marijuana Registered Caregiver Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.
- **Medical Marijuana Registered Dispensary:** An establishment licensed by the State of Maine as a Registered Medical Marijuana Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.
- **Marijuana Nursery Cultivation Facility:** An establishment licensed by the State of Maine as an adult use nursery cultivation facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.
- **Marijuana Plant – Immature:** A marijuana plant that is not a mature marijuana plant or a marijuana seedling as defined in Title 28-B M.R.S. Chapter 1.
- **Marijuana Plant – Mature:** A marijuana plant that is flowering as defined Title 28-B M.R.S. Chapter 1.

- Marijuana Seedling: A marijuana plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width as defined in Title 28-B M.R.S. Chapter 1.

2. Amend Section 7.6.3 Commercial Uses and Section 7.6.4 Industrial, Wholesale & Transportation Uses in Section 7.6 Land Use Table to add Medical Marijuana Cultivation Facility – Tier 1, Medical Marijuana Cultivation Facility – Tier 2, Marijuana Cultivation Facility – Tier 3, Marijuana Cultivation Facility – Tier 4, Marijuana Products Manufacturing Facility, Marijuana Testing Facility, Marijuana Retail Store, Medical Marijuana Registered Caregiver Retail Store, Medical Marijuana Registered Dispensary, and Marijuana Nursery Cultivation Facility to the table to read as follows:



### 7.6.3 Commercial Uses

#### Key to Land Use Table

Y = "Allowed"

N = Not Allowed

C = Code Enforcement Officer Review

P = Permitted with Review

SD = Subdivision Review

#### Legend

The legend at the top of the columns identifies the various zoning districts as follows:

RP	Resource Protection	SLR	Shoreland Overlay Limited Residential
SL	Shoreland	RG	Residential Growth
R	Rural	HDR	High Density Residential
PR	Professional/Residential	TD	Traditional Downtown
PIC	Planned Industrial/Commercial	PD	Planned Development
CC	Cobbossee Corridor	ECR	Education/Community Recreation
MUV	Mixed Use Village	PHD	Planned Highway Development
IT	Intown Commercial	CPD	Cobbossee Planned Development

Commercial Uses	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Accessory Business Use	N	N	N	N	N	P <sup>11</sup>	P <sup>11</sup>	N	N	N	N	N	N	N	N	N
Adult Businesses	N	N	N	N	N	N	N	N	P	N	N	N	N	N	N	N
Auction Barn	N	N	N	N	N	N	N	P	N	P	N	N	P <sup>8</sup>	P	N	N
Automobile Repair	N	N	N	P	N	N	N	N	P	P	N	N	P <sup>6</sup>	P	N	N
Automobile/Vehicle Sales & Service	N	N	N	N	N	N	N	N	P	P	N	N	P	P	P	N
Bank	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N
Bed & Breakfast	N	P	P	P	P	P	P	P	P	P	N	P	P	N	P	P
Building Supply	N	N	N	N	N	N	N	P	N	P	N	N	N	P	P	N

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Catering	N	N	N	P	P <sup>9</sup>	N	P	P	N	P	N	P	P	P	P	P
Communication Facility exclusive of towers	N	N	N	P	N	N	N	P	P	P	N	N	P	C	P	N
Communication Facility in alternative tower structure	N	N	N	P	P	P	P	P	P	P	N	P	P	C	P	P
Communication Tower	N	N	N	P	N	N	N	N	P	N	N	N	N	P	N	N
Construction Services	N	N	N	P	N	N	N	N	P	P	N	N	N	P <sup>7</sup>	N	N
Convenience Store including Retail Fuel Sales	N	N	N	N	N	N	N	N	P	P	N	N	P	P	P	N
Crematory	N	N	N	P	N	N	N	N	P	N	N	N	N	N	N	N
Funeral Home	N	N	N	P	N	N	P	P	N	P	N	N	P	P	P	N
Indoor Recreation Facility	N	N	N	N	N	N	N	P	P	P	N	P	P <sup>6</sup>	P	P	N
Junkyards & Auto Graveyards	N	N	N	P	N	N	N	N	N	N	N	N	N	N	N	N
Kennels	N	N	N	P	N	N	N	N	N	P	N	N	N	N	N	N
Kiosks	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N
Laboratories /Research Facilities	N	N	N	N	N	N	P	P	P	P	N	P	P <sup>6</sup>	P	P	N
Laundromat	N	N	N	N	N	N	N	P	N	P	N	N	P	P	P	N
<b>Marijuana Nursery Cultivation Facility<sup>13</sup></b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>N</b>
<b>Marijuana Retail Store<sup>13</sup></b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>N</b>
Marinas	N	N	P	P	N	N	N	P	N	P	N	P	N	N	P	N
Medical Facility	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
<u>Medical Marijuana Registered Caregiver Retail Store</u> <sup>13</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>
<u>Medical Marijuana Registered Dispensary</u> <sup>13</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>
Meeting Space Up to 2000 Sq Ft	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N
Meeting Space over 2000 Sq Ft	N	N	N	N	N	N	P	P	P	P	N	P	P <sup>6</sup>	P	P	N
Offices up to 2,000 sq. ft.	N	N	N	P	P <sup>9</sup>	N	P	C	C	P	N	P	P	P	P	P <sup>9&amp;10</sup>
Offices 2,000 sq. ft. or larger	N	N	N	N	N	N	P	P	P	P	N	P	P <sup>6</sup>	P	P	N
Overnight Accommodation	N	N	N	N	N	N	N	P	P	P	N	P	P	P	P	N
Outdoor Storage Facility	N	N	N	N	N	N	N	N	P	P	N	N	N	N	N	N
Parking Garage	N	N	N	N	N	N	N	P	P	N	N	P	N	P	P	N
Parking Lots	N	N	N	N	N	N	N	P	P	P	N	P	P	C	P	N
Pet Services	N	N	N	P	N	N	N	P	N	P	N	P	P	P	P	N
Restaurant	N	N	N	N	N	N	P	C	P	P	N	P	P	P	P	N
Restaurant with drive-through	N	N	N	N	N	N	N	N	N	N	N	N	P	P	P	N
Retail up to 3,500 sq. ft.	N	N	N	P	N	N	P	P	P	P	N	P	P <sup>6</sup>	P	P	N
Retail 3,500 sq. ft. or larger	N	N	N	N	N	N	N	P	P	P	N	P	N	N	P	N
Self-Storage Buildings	N	N	N	N	N	N	N	N	P	P	N	N	P <sup>6</sup>	P	N	N
Service Business	N	N	N	N	P <sup>9</sup>	N	P	P	P	P	N	P	P <sup>6</sup>	P	P	P <sup>9&amp;10</sup>



	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Shopping Center	N	N	N	N	N	N	N	N	P	P	N	P	N	P	P	N
Theater	N	N	N	N	N	N	N	P	N	P	N	P	P	P	P	N
Tradesperson's Office	N	N	N	P	P	P	P	P	P	P	N	P	P	P	P	P
Vehicle Fueling Station	N	N	N	N	N	N	N	N	P	P	N	N	P	P	P	N
Veterinary Clinic	N	N	N	P	N	N	N	P	N	P	N	P	N	P	P	N
Detached Canopy	N	N	N	N	N	N	N	N	P	P	N	N	P	P	P	N



### 7.6.4 Industrial, Wholesale & Transportation Uses

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MUV	Mixed Use Village	PHD	Planned Highway Development
IT	Intown Commercial	CPD	Cobbossee Planned Development

Industrial, Wholesale & Transportation Uses																
	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Commercial Firewood	N	N	N	P	N	N	N	N	N	N	N	N	N	N	N	N
Composting Facility	N	N	N	P	N	N	N	N	N	P <sup>6</sup>	N	N	N	N	N	N
Fuel Storage Facility	N	N	N	N	N	N	N	N	P	P <sup>6</sup>	N	N	N	P	N	N
Manufacturing Heavy	N	N	N	N	N	N	N	N	P	N	N	N	N	N	N	N
Manufacturing Light	N	N	N	N	N	N	N	P	P	P <sup>6</sup>	N	P <sup>7</sup>	P <sup>6</sup>	P	P <sup>7</sup>	N

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
<u>Medical Marijuana Cultivation Facility – Tier 1</u> <sup>13</sup>	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
<u>Medical Marijuana Cultivation Facility – Tier 2</u> <sup>13</sup>	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
<u>Marijuana Cultivation Facility – Tier 3</u> <sup>13</sup>	N	N	N	P	N	N	N	N	P	N	N	N	P	P	N	N
<u>Marijuana Cultivation Facility – Tier 4</u> <sup>13</sup>	N	N	N	P	N	N	N	N	P	N	N	N	P	P	N	N
<u>Marijuana Products Manufacturing Facility</u> <sup>13</sup>	N	N	N	N	N	N	N	N	P	N	N	N	P	P	P <sup>14</sup>	N
<u>Marijuana Testing Facility</u> <sup>13</sup>	N	N	N	N	N	N	N	N	P	P	N	N	P	P	N	N
Passenger Transit Facility	N	N	N	N	N	N	N	P	P	P	N	P <sup>7</sup>	P	P	P	N
Recycling Facility	N	N	N	P	N	N	N	P	P	P <sup>6</sup>	N	N	N	N	N	N
Sawmill	N	N	N	P	N	N	N	N	C	P <sup>6</sup>	N	N	N	N	N	N
Trucking & Freight Facility	N	N	N	N	N	N	N	N	C	P <sup>6</sup>	N	N	N	N	N	N
Waste Processing Facility	N	N	N	N	N	N	N	N	P	N	N	N	N	N	N	N



Wholesale & Warehouse	N	N	N	N	N	N	N	N	P	C	P	N	P <sup>7</sup>	N	P	P	N	
Windmill Small	N	P	C	P	P	P	C	C	P	C	C	P	P	P	P	P	P	P
Windmill Mid-size	N	N	N	P	N	N	P	P	N	P	P	P	N	N	P	P	N	N
Windmill Large	N	N	N	P	N	N	P	P	N	P	P	P	N	N	P	P	N	N

NOTE 13: An applicant that has received a conditional license from the State of Maine for a marijuana establishment may apply for City approval of that category of establishment. Any approval based upon a conditional state license shall be conditioned on the applicant receiving an active license from the state within one hundred eighty (180) days of the date of the City's approval. If the applicant fails to obtain an active license within that period, all City approvals and permits are void.

NOTE 14: A Marijuana Products Manufacturing Facility in the Intown Commercial District is only allowed if conducted within a commercial kitchen setting of less than four thousand (4,000) square feet and not using any "inherently hazardous substances" as defined by Title 285B Section 102(20) M.R.S. Chapter 558-C.

3. Amend Section 10 Special Activity Performance Standards to create a new Section 10.28 Marijuana Establishments to read:

### **10.28 Marijuana Establishments**

**10.28.1** Any property line of the lot upon which a marijuana establishment is located shall be a minimum of one thousand (1,000) feet from any property line of a lot upon which a public or private school, athletic field or playground is located. A “school” includes 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; provided however, a functional equivalent minimum setback of five hundred (500) fet may apply provided that the Planning Board finds that any of the following are met:

**10.28.1.1** The location of the buildings or areas actively used on either or both lots results in the entrance to the marijuana establishment being more than one thousand (1,000) feet from the area of the protected lot that is actively used or that provides access to the building or facilities; or

**10.28.1.2** The marijuana establishment is physically separated from the protected lot by a natural or other physical feature that makes pedestrian access between the two lots impractical.

**10.28.2** A Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility shall not be open for consumer transactions or other public activity between the hours of 8:00 p.m. and 8:00 a.m. unless the City Council establishes other hours of operation as part of a City Marijuana Establishment License.

**10.28.3** The primary customer or registered patient entrance to a Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility shall not be located within two hundred (200) feet of the primary customer or registered patient entrance of an existing Marijuana Retail Store, a Medical Marijuana Registered Caregiver Retail Store, a Medical Marijuana Registered Dispensary, or a Marijuana Nursery Cultivation Facility as measured along the edge of the street right(s)-of way. If the entrance(s) is set back from the street right-of-way, the distance shall be measured along the right-of way from a point on the edge of the right-of-way that is perpendicular to the center of the entrance(s). A legally existing medical marijuana establishment at the time of adoption of this provision or an establishment that has received a City Marijuana Establishment License shall be considered an existing facility for the purpose of this limit.

**10.28.4** A Marijuana Products Manufacturing Facility or a Marijuana Testing Facility shall not be located in a building or structure that contains one or more dwelling units or other residential uses. This limitation shall not apply to facilities located in a single-family home that is occupied by a Registered Medical Marijuana Caregiver.

**10.28.5** An applicant that has received a conditional license from the State of Maine for a marijuana establishment may apply for City approval of that category of establishment. Any



approval or license based upon a conditional state license shall be conditioned on the applicant receiving an active license from the state within one hundred eighty (180) days of the date of the City’s approval. If the applicant fails to obtain an active license within that period, all City approvals, licenses and permits are void.

10.28.6 A Marijuana Products Manufacturing Facility in the Intown Commercial District is only allowed if conducted within a commercial kitchen setting of less than four thousand (4,000) square feet and not using any “inherently hazardous substances” as defined by Title 285B Section 102(20) M.R.S. Chapter 558-C.

4. Amend Section 6.2.3.2 Activities Subject to Planning Board Review to add a new subsection 6.2.3.2.9 to read:

6.2.3.2.9 The establishment or expansion of a marijuana establishment unless the scale of the activity triggers Site Plan Review in accordance with 6.2.3.3. This requirement for Planning Board Review shall apply even if the proposed activity does not otherwise trigger Planning Board Review based on the scale of the project.