



**GARDINER CITY COUNCIL  
AGENDA ITEM INFORMATION SHEET**



<b>Meeting Date</b>	02/17/2021	<b>Department</b>	City Council
<b>Agenda Item</b>	4.d Possible Approval of the Extension of Marijuana Moratorium/Adult Use Retail Marijuana and Medical Marijuana		
<b>Est. Cost</b>	n/a		

**Background Information**

Currently the City of Gardiner has in place a Moratorium Ordinance for Adult Use Retail Marijuana and Medical Marijuana Retail. This ordinance is set to expire on March 1, 2021.

The City Council is being asked to consider a possible extension of this ordinance and consider a possible adoption.

An extension of a moratorium ordinance can be for an additional 180 days if the following is true: the problem giving rise to the moratorium still exists and the city has made reasonable progress to alleviate the problem giving rise to the moratorium, but more time is needed, and the city has made a reasonable progress to alleviate the need for a moratorium.

The City Council can continue this ordinance with one Public Hearing and a vote to continue the moratorium.

<b>Requested Action</b>	'I move to extend the Moratorium Ordinance/ Adult Use Retail Marijuana and Medical Marijuana Retail for an additional 180 days. The reason for this extension is that reasonable progress has been made to alleviate the problem giving rise to the moratorium, however a problem still exists and more time is needed.'
<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>	

<b>City Clerk Use Only</b>	1 <sup>st</sup> Reading <u>02/17/2021</u>	Advertised <u>02/08/2021</u>	<b>EFFECTIVE DATE</b> <u>09/02/2020</u>
	2 <sup>nd</sup> Reading _____	Advertised <u>03/04/2021</u> w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

**CITY OF GARDINER  
MORATORIUM ORDINANCE REGARDING  
ADULT USE RETAIL MARIJUANA AND  
MEDICAL MARIJUANA RETAIL**

**WHEREAS**, the City Council of the City of Gardiner, Maine (the “City”) makes the following findings:

- (1) The Maine Office of Marijuana Policy announced that adult use marijuana retail sales would begin on October 9, 2020; and
- (2) In April 2018, the Maine Legislature passed LD 1719, *An Act to Implement a Regulatory Structure for Adult Use Marijuana*, which established the regulatory framework for cannabis sales in Maine, codified in Title 28-B (the “Marijuana Legalization Act”); and
- (3) The Maine Medical Use of Marijuana Act , codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and
- (4) On July 9, 2018, the Maine Legislature enacted P.L. 2017, c. 452 (LD 1539), *An Act to Amend Maine’s Medical Marijuana Law*, which includes authorization for registered caregivers to operate retail stores for the sale of medical marijuana to qualifying patients subject to this Act’s provisions, which expressly recognize and contemplate municipal authorization and regulation of medical marijuana retail stores; and
- (5) The City of Gardiner has initially opted in to certain types of uses or marijuana establishments under the aforescribed Marijuana Legalization Act and Maine Medical Use of Marijuana Act
- (6) The location and operation of adult use and medical marijuana retail stores within the City under the existing Land Use Ordinance and other applicable Codes and Ordinances, combined with unforeseen development pressure for such activities, raises legitimate and substantial questions about the impact of such activity on the City, including questions as to compatibility with existing land uses and developments in the City and the sufficiency of municipal infrastructure to accommodate such activities; and
- (7) As a result of the foregoing issues, the location and operation of adult use and medical marijuana retail stores within the City have potentially serious implications for the health, safety, and welfare of the City and its residents; and
- (8) The City has made initial progress in developing regulations to address adult use marijuana retail stores and medical marijuana retail stores; however, application of the current Land Use Ordinance and other applicable Codes and Ordinances are inadequate to prevent

serious public harm that could result from the development of adult use and medical marijuana retail stores in the City; and

- (9) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the location and operation of adult use and medical marijuana retail stores in the City; and
- (10) Ordinances do not generally become effective until thirty (30) days after approval, unless at least five (5) members of the City Council pass emergency orders; and
- (11) In the judgment of the City Council, the foregoing constitutes an emergency within the meaning of 30-A M.R.S. § 4356 and Article II(7) of the City Charter requiring immediate legislative action.

**NOW THEREFORE**, pursuant to 30-A M.R.S. § 4356, be it ordained by the City as follows:

**Section 1. Moratorium.** The City does hereby enact and declare a moratorium on the location, operation, permitting, approval, or licensing of any and all adult use or medical marijuana retail stores within the City. No person or organization shall develop or operate an adult use marijuana retail store or medical marijuana retail store within the City on or after the effective date of this Ordinance and in accordance with the applicability provision set forth below. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana or adult use marijuana retail store.

**Section 2. Definitions.** For purposes of this ordinance, the term “adult use marijuana retail store” and “medical marijuana retail store” means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, including any activities connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

**Section 3. Effective Date; Applicability Date; Pending Proceedings.** This Ordinance shall become effective immediately upon its adoption and, notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall apply retroactively to and govern any proposed adult use marijuana or medical marijuana retail store for which an application for a building permit, certificate of occupancy, site plan, or any other required approval has been submitted to the City on or after September 2, 2020, the applicability date of this Ordinance, whether or not said application submitted on or after September 2, 2020 has become a pending proceeding upon or after September 2, 2020. This Ordinance shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the City, whichever shall first occur. This Ordinance shall not apply to any application submitted prior to September 2, 2020 or that was a pending proceeding prior to September 2, 2020 for a proposed adult use marijuana retail store or medical marijuana retail store.

**Section 4. Conflicts/Savings Clause.** Any provisions of the City’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

**Section 5. Violations.** If any adult use or medical marijuana retail store is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the City shall be entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Adopted 14OCT2020, Effective 02SEP2020, Expires 01MAR2021

Extended 02/17/2021 for an additional 180 days.