



GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET



Meeting Date	02/03/2021	Department	City Council
Agenda Item	4.f Consider Sending the Extension of Moratorium Ordinance/ Adult Use Retail Marijuana and Medical Marijuana to a Public Hearing		
Est. Cost	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 sending a possible extension of this ordinance to a Public Hearing on February 17, 2021, and to consider a possible adoption that evening also.

An extension of a moratorium ordinance can be for an additional 180 days if the following still exists: 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.

Requested Action	'I move to send the extension of the Moratorium Ordinance/ Adult Use Retail Marijuana and Medical Marijuana Retail to a Public Hearing on February 17, 2021.'
City Manager and/or Finance Review	The City Manager recommends the above action.
Council Vote/ Action Taken	
Departmental Follow-Up	

City Clerk Use Only	1 st Reading _____	Advertised _____	EFFECTIVE DATE _____
	2 nd Reading _____	Advertised _____ 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 the City of Gardiner opted into the adult use program; 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; and
- (3) The Maine Medical Use of Marijuana Act (the “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 harvested 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 unregulated location and operation of adult use and medical marijuana retail stores within the City 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; the sufficiency of municipal infrastructure to accommodate such activity; and
- (6) 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
- (7) The City currently has regulations governing adult use and medical marijuana retail stores, and the current Land Use Ordinance and other applicable Codes and Ordinances are insufficient to prevent serious public harm that could result from the unregulated development of adult use and medical marijuana retail stores; and
- (8) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of adult use and medical marijuana retail stores in the City; and

- (9) 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
- (10) 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 and medical marijuana retail stores within the City. No person or organization shall develop or operate an adult use retail marijuana store or medical marijuana retail store within the City on or after the effective date of this Ordinance. 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 retail store.

Section 2. Definitions. For purposes of this ordinance, the term “adult use 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. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any proposed adult use 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, whether or not a pending proceeding, prior to the enactment of this Ordinance.

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.

Section 6. Effective Date and Applicability Date. This Ordinance shall become effective immediately upon its adoption and apply retroactively to any and all medical marijuana retail stores that may be proposed to be located within the City on or after the September 2, 2020, the applicability date of this Ordinance. 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.

Adopted 14OCT2020, Effective 02SEP2020, Expires 01MAR2021

RESOLUTION # ____ - _____

RESOLUTION TO EXTEND THE CITY OF GARDINER MORATORIUM ORDINANCE REGARDING ADULT USE RETAIL MARIJUANA AND MEDICAL MARIJUANA RETAIL

RESOLVED, by the City Council of the City of Gardiner, that:

WHEREAS, the City of Gardiner enacted the “City of Gardiner Moratorium Ordinance Regarding Adult Use Retail Marijuana and Medical Marijuana Retail” (hereinafter “Moratorium”); and

WHEREAS, 30-A M.R.S. § 4356 provides that, after notice and hearing, municipal officers may extend moratoriums for additional 180-day periods; and

WHEREAS, a properly noticed public hearing was held on the __ day of February, 2021, to allow the City Council to consider the need to extend the moratorium and whether reasonable progress has been made to alleviate said need, at which the City Council heard from all persons wishing to speak to the issue of extending the Moratorium; and

WHEREAS, pursuant to the aforescribed hearing, the City Council finds the problem giving rise to the Moratorium still exists, and that the City of Gardiner has made reasonable progress to alleviate this need for the Moratorium; and

WHEREAS, the City Council further finds that additional time is warranted to provide sufficient time to alleviate the need giving rise to the Moratorium.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Gardiner hereby extends the Moratorium by an additional 180-day time period; and

BE IT FURTHER RESOLVED, that to the extent any provision of this Resolution or the Moratorium is deemed invalid by a court of competent jurisdiction, the balance of the Resolution and/or Moratorium shall remain valid.

Dated this __ day of February, 2021.

CITY COUNCIL OF THE CITY OF GARDINER

Patricia Hart, Mayor

Terry Berry

Amy Rees

Colin Frey

Marc Rines

Maryann White

Penny Sergent

Timothy Cusick

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