



**GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET**



Meeting Date	06/02/2021	Department	Planning/Economic Dev
Agenda Item	5.d) First Reading of the proposed amendments to the Land Use Ordinance and Codes dealing with marijuana establishments.		
Est. Cost			

Background Information

This is the First Read of the Ordinance Review Committee's recommended draft changes to the LUO and Codes that discuss marijuana establishments. The Planning Board held a public hearing on the proposed amendments at its meeting on May 11, 2021 and is forwarding the attached amendments to the Council with its recommendation that they be adopted. The recommended amendments include a few minor changes made by the Planning Board. All pertaining documents are attached to this item agenda.

Requested Action	"I would like to make a motion to move this item to a Second Read on June 16, 2021 at 6PM via a publicly accessible Zoom meeting of the Gardiner City Council."
City Manager and/or Finance Review	Acting City Manager approves 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 _____

To: The City Council
From: The Ordinance Review Committee and Planning Board
Subject: Marijuana Facilities
Date: May 12, 2021

The Ordinance Review Committee developed draft changes to the Land Use Ordinance dealing with how the City regulates both adult-use and medical marijuana establishments in response to the City's moratorium. The Planning Board held a public hearing on the proposed amendments at its meeting on May 11, 2021 and is forwarding the attached amendments to the Council with its recommendation that they be adopted. The recommended amendments include a few minor changes made by the Planning Board.

These amendments are put forward with an understanding that there may be legal issues about the treatment of marijuana establishments in areas where the City has used federal funds for past work. This issue has been addressed by adding a footnote that applies to all marijuana establishments indicating that such facilities may not be allowed in some areas due to the prior use of federal funds.

Here is an overview of the proposed changes to the Land Use Ordinance:

- Revisions to the separation distance requirements dealing with schools and similar institutions and clarifying which types of schools are included in this requirement.
- Revisions to the provisions dealing with how the required separation distance between retail marijuana establishments is measured and increasing the minimum separation distance between retail marijuana establishments from 250 feet to 500 feet.
- Revisions to the Land Use Table limiting where various retail marijuana uses can be located.
- Revisions to the Land Use Table removing Tier 3 & 4 cultivation facilities and product manufacturing establishments as permitted uses in the MUV and PHD Districts.
- Revisions to add requirements in the marijuana establishments performance standards dealing with odors.

Recommended Amendments to the Land Use Ordinance
Relative to Medical and Adult-Use Marijuana Establishments

Proposed additions to the ordinance are underlined:
proposed deletions are ~~struck-out~~.

1. Amend Section 10.29.1 in Section 10.29 Marijuana Establishments to read:

10.29.1 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, daycare center/nursery 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 including commercial schools that serves children that are less than eighteen (18) years old ~~from prekindergarten to grade 12~~; provided however, a functional equivalent minimum setback of five hundred (500) feet may apply provided that the Planning Board finds that any of the following are met:

10.29.1.1 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

10.29.1.2 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.

2. Amend Section 10.29.3 in Section 10.29 Marijuana Establishments to read:

10.29.3 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 five~~ hundred (~~25~~00) 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. The distance between entrances shall apply to establishments on both sides of a street. The separation distance shall be as measured along the edge of the street right(s)-of- way. If the entrances are on different streets, the separation distance shall be measured along the edge of the rights-of-way of the streets connecting the two establishments. 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.

3. Add Note 16. to the Notes in Section 7.6 Land Use Table to read:

16. Marijuana establishments may be prohibited in some areas where they are otherwise allowed due to restrictions relating to the prior use of federal funding by the City. Consult with the Code Enforcement Officer to determine if this use is allowed at a particular location.

4. Amend Section 7.6.3 Commercial Uses in the Land Use Table in Section 7.6 to revise the districts within which Marijuana Retail Stores, Medical Marijuana Registered Caregiver Retail Stores, and Medical Marijuana Registered Dispensaries are permitted as follows:

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Marijuana Retail Store^{13,16}	N	N	N	N	N	N	N	P	N	N	N	NP	NP	NP	P	N
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
Medical Marijuana Registered Caregiver Retail Store^{13,16}	N	N	N	N	N	N	N	P	N	N	N	NP	NP	NP	P	N
Medical Marijuana Registered Dispensary^{13,16}	N	N	N	N	N	N	N	P	N	N	N	NP	NP	NP	P	N
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 ⁶	P	P	N

5. Amend Section 7.6.4 Industrial, Wholesale & Transportation Uses in the Land Use Table in Section 7.6 to revise the districts within which Marijuana Cultivation – Tier 3, Marijuana Cultivation – Tier 4, and Marijuana Products Manufacturing are permitted:

Industrial, Wholesale & Transportation Uses																
	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Medical Marijuana Cultivation Facility – Tier 1 ^{13,16}	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
Medical Marijuana Cultivation Facility – Tier 2 ^{13,16}	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
Medical Marijuana Cultivation Facility – Tier 3 ^{13,16}	N	N	N	P	N	N	N	N	P	N	N	N	NP	NP	N	N
Medical Marijuana Cultivation Facility – Tier 4 ^{13,16}	N	N	N	P	N	N	N	N	P	N	N	N	NP	NP	N	N
Marijuana Products Manufacturing Facility ^{13,16}	N	N	N	N	N	N	N	N	P	N	N	N	NP	NP	P ¹⁴	N
Marijuana Testing Facility ^{13,16}	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 ⁷	P	P	P	N
Recycling Facility	N	N	N	P	N	N	N	P	P	P ⁶	N	N	N	N	N	N
Sawmill	N	N	N	P	N	N	N	N	C	P ⁶	N	N	N	N	N	N

6. Amend 10.29 Marijuana Establishments by adding a new subsection 10.29.7 to read:

10.29.7 All marijuana establishments shall be designed and operated in a manner that prevents marijuana plant odors from significantly altering the environmental odor outside. Odor control can include the management of odor producing operations as well as provisions for ventilation and filtration systems.

7. Amend 6.3.3 Additional Information for Applications for Planning Board Review and Site Plan Review by adding a new subsection 6.3.3.6 to read as follows:

6.3.3.6 If the application is for the establishment or expansion of a marijuana establishment, the application shall include a written odor control plan that demonstrates how the requirement of 10.29.7 will be met. The odor control plan can include the management of odor producing operations as well as provisions for ventilation and filtration systems.