



GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET



Meeting Date	12/04/2019	Department	Code Enforcement
Agenda Item	4.12 Work Session for Marijuana Ordinances		
Est. Cost	N/A		

Background Information

Mark Eyerman will be present at the Council meeting to help facilitate the marijuana ordinance discussion.

The objectives for this work session are:

- *to bring the council members up to date on the adult-use and medical marijuana rules and how they interface with anything the city decided to do.
- *to review any possible approaches for regulating various types of marijuana establishments in the city.
- *to get feedback from the council on the draft land use and licensing proposals developed by the ORC and to determine the general direction the city wants to pursue on this issue and to guide the ORC and PB on possible revisions to the proposal.

Please review all attached materials.

Requested Action	n/a
City Manager and/or Finance Review	n/a
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 _____

Kelly Gooldrup

From: Mark Eyerman <markplanme@gmail.com>
Sent: Friday, November 8, 2019 2:21 PM
To: Patricia Hart; Christine Landes; Kelly Gooldrup; Debby.Willis@Maine.gov; Debby Willis @ home; Kristopher McNeill
Subject: Marijuana Workshop
Attachments: Council Memo Overview Adult-Use and Medical Marijuana Revised 10-21-19.pdf; ORC Draft Marijuana Land Use Amendments Revised 10-21-19.pdf; Draft Marijuana Licensing Ordinance Revised 10-21-19.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

To All:

Just checking in on the marijuana proposals to be sure we all on the same page:

1. The draft proposals will be on the 12/4 Council agenda as a workshop or discussion item. It is **not** intended that the Council will take any action at this meeting.
2. Since both the medical and adult-use marijuana laws have opt-in provisions it is important that any legislation allowing various marijuana establishments in the City be adopted as part of a complete package since the first action by the Council may be construed as an opt-in.
3. The objectives for the "workshop" are:
 - To bring the council members up to date on the adult-use and medical marijuana rules and how they interface with anything the City decides to do.
 - To review the possible approaches for regulating various types of marijuana establishments in the City.
 - To get feedback from the Councilors on the draft land use and licensing proposals developed by the Ordinance Review Committee to determine the general direction the City wants to pursue on this issue and to guide the ORC and PB on possible revisions to the proposals.
4. The Members of the Council should receive the following materials prior to the 12/4 workshop. I have attached the most recent versions:
 - The overview of the marijuana laws/rules and possible approaches for regulating both medical and adult-use marijuana facilities
 - The draft of possible amendments to the Land Use Code to permit certain types of marijuana establishments in various locations
 - A draft of a possible City licensing ordinance that would require marijuana establishments to obtain a City license annually in addition to being licensed by the state.
5. The Council should also consider if and how it wants to obtain public input on the proposals outside of the normal required public hearings. Any amendments to the Land Use Code will need to go through the Planning Board and they have to hold a public hearing on the amendments before they come to the Council. And the City Council would have to go through the normal adoption and hearing process for either/both land use

amendments or enacting a licensing ordinance. The Council should consider if it wants to do anything to give the public the opportunity to provide input on the proposals before they get to the formal public hearings.

Mark Eyerman

To: City Council and Planning Board
From: Ordinance Review Committee
Subject: Medical and Adult-Use Marijuana Facilities
Date: Revised October 21, 2019

This memo addresses how the City should or should not allow and regulate both **medical and adult-use marijuana facilities**. Both the revised medical marijuana law and the new/revised adult use marijuana law require that a municipality “opt-in” to allowing various types of marijuana establishments. This means that the state cannot approve a license for a new facility unless the community has made provisions for that type of use. The adult use law allows municipalities to regulate marijuana establishments through land use regulations, licensing or other ordinances. The medical marijuana law is a little vaguer and simply says that municipalities may regulate certain types of establishments. In the following sections we have provided an overview of the state law provisions dealing with municipal regulation, a summary of the City’s Recreational Marijuana Task Force’s recommendations and some draft ordinance provisions that lay out how the City can proceed.

State Laws

Attached is a piece from the MMA’s Maine Town and City publication. This provides a good overview of the revised state laws even though it is now a few months old – take a look at it. It is important to recognize that the state has just completed much of the rule-making process that will establish the detailed requirements for implementing the new adult use law and is still in the process of updating the rules relating to the revised medical marijuana law. In adopting the rules for adult use marijuana the Legislature directed that the “provisional rules” be revised and that process is underway. So as the City moves through this process it will need to go back and review any proposals against the state rules that are finally adopted.

Here is an overview of a couple of key points in the state laws:

1. **State Licensing** – The licensing of adult use marijuana establishments is set up so that an applicant first applies to the state to demonstrate that it meets the basic requirements for a license. If they do, they are conditionally approved. The applicant then has to get all locally required approvals and the municipality then certifies to the state that the applicant has been approved. Then the state moves forward with the full review of the application including all of the technical details – operating plan, odor controls, safety and security, etc. Local approval is also required for license renewals or relocations to a different location.

2. **Opt-In Provisions** - The revised laws adopted by the legislature provide that the state can issue a license for an adult-use or certain types of medical marijuana establishments in a community **only** if the community has explicitly adopted provisions allowing that type of establishment. This is referred to as an opt-in provision. This is an important consideration in terms of the City's work since there is no outside time pressure to get something on the books.
3. **Social Clubs** – The recreational marijuana law adopted by referendum established five types of recreational marijuana facilities – cultivation facilities, product manufacturing facilities, testing facilities, retail stores, and social clubs. The revised adult use law deleted the provision for social clubs in which customers could consume marijuana products on the premises. So this is off the table for discussion.
4. **Registered Medical Marijuana Dispensaries** – The number of medical marijuana dispensaries was limited under the “old” medical marijuana law. The revised law allows for the licensing of additional dispensaries and removes the cap entirely in a few years. Therefore the treatment of dispensaries needs to be part of the City's discussion.
5. **Medical Marijuana Caregiver Retail Stores** – The revised medical marijuana law allows registered caregivers to set up storefronts to distribute (sell) marijuana products to registered patients.
6. **Nursery Cultivation Facilities** – The adult use law carves out a separate type of cultivation facility called a nursery cultivation facility. Essentially these are small-scale grow facilities that can sell seeds and immature plants to the public along with “gardening” supplies. So while they are grouped under cultivation facilities they are somewhat similar to adult use retail stores and are treated that way in some of the state rules. The City should probably consider this as a separate type of use.
7. **Local Regulation** – Under the revised adult use law municipalities can regulate whether each of the four types of facilities (actually five if you consider nursery cultivation facilities as a separate use) is allowed, and if so where and under what requirements. It also allows municipalities to set up licensing requirements and charge a licensing fee. These requirements can be in a zoning or land use ordinance and/or in other licensing provisions. The medical marijuana law simply allows municipalities to regulate certain types of marijuana establishments.
8. **Medical Marijuana Cultivation Facilities** – The State rules for medical marijuana establishments does not explicitly give municipalities authority to regulate medical marijuana cultivation facilities. However under the City's Home Rule authority it probably can regulate and license this type of facility if it so chooses.

There is overlap between the two sets of laws and regulations and there are some things that are distinct between the two. Here is an overview of some of those:

- Medical marijuana dispensaries cannot be located within 500 feet of a public or private school
- There does not appear to be any such provision for caregiver retail stores in the medical marijuana law but that could be added in the revised medical marijuana rules
- Adult use establishments have to be 1000 feet from schools unless the municipality allows a lesser distance but not less than 500 feet
- Both laws deal with product manufacturing and testing facilities
- The adult use law regulates cultivation facilities and breaks it down into four tiers based on the size of the plant canopy (see below)
- As noted above the medical marijuana rules do not specifically address local regulation of medical marijuana cultivation facilities
- The adult use law allows retail stores that can sell to the general public while the medical law allows dispensaries and caregiver retail stores that can only sell to registered patients
- The adult use law allows for the sale of seeds, immature plants, paraphernalia and garden supplies to the general public through nursery cultivation facilities.
- Both laws provide for combinations of types of facilities and adult use/medical facilities but you cannot have a retail shop that sells to both the general public and registered medical marijuana patients.

Task Force Recommendations

The City's Recreational Marijuana Task Force that was set up to deal with the original recreational marijuana law made the following recommendations with respect to allowing recreational/adult-use marijuana facilities in Gardiner. The Task recommended that social clubs not be allowed but that is now a mute issue since the revised state law does not provide for them. It made the following recommendations for other types of recreational marijuana facilities:

- Retail Facilities – Allow these facilities subject to regulations “within and outside the City of Gardiner business district”.
- Cultivation, Manufacturing and Testing Facilities – Allow “in appropriate zoning areas” subject to state and local restrictions.

Possible Ordinance Provisions

There are three separate issues related to the City's treatment of marijuana establishments and related ordinances. The overriding issue is whether the City wants to allow additional medical marijuana establishments and/or new adult use marijuana establishments. The City can choose to allow none, some or all types of medical and adult use establishments (see below for more discussion on this). If the City does want to allow any type of new marijuana establishment, the second issue is how does the City want to regulate those activities. This could include land use regulations and/or a licensing process. The third piece of the puzzle is then to develop the specific ordinance language to carry out that direction.

1. **Types of Marijuana Establishments** – It probably makes sense to consider all of the types of establishments allowed under both laws since it is possible to deal with them together where there is overlap or the different uses are similar. Here are the various types of marijuana establishments:

- Marijuana cultivation facility (adult use)
 - Tier 1 – not more than 30 plants or 500 SF of canopy
 - Tier 2 – not more than 2,000 SF of canopy
 - Tier 3 – not more than 7,000 SF of canopy
 - Tier 4 – not more than 20,000 SF of canopy unless larger is approved periodically
- Marijuana testing facility (both)
- Marijuana products manufacturing facility (both)
- Marijuana retail store (adult use)
- Registered dispensary (medical)
- Registered caregiver retail store (medical)
- Nursery cultivation facilities (adult use)

In addition we may want to consider various sizes of medical marijuana cultivation facilities even though this are not addressed in the state law and rules but can be under home rule authority.

So the first question is which if any of these types of marijuana establishments does the City want to allow? The earlier task force recommended allowing recreational use cultivation, testing and product manufacturing facilities as well as retail stores. They did not address the medical marijuana establishments.

2. **Land Use Regulations vs. Licensing** -- This is not necessarily an either/or question – it could be both. The Land Use Code can regulate what types of marijuana establishments are located in which districts and what performance standards apply to them. It can also provide for Planning Board review of the establishment of new uses, the relocation of uses, and expansions of uses. But it is a one-time review as long as things do not change. Licensing can set up an annual process to review the operation

and performance of the establishment and revoke the license if there are operational issues. This could apply to all or only certain types of marijuana facilities. A good case can be made for doing both if the City chooses to allow retail types of marijuana establishments.

3. **Licensing Process** – There are sometimes concerns about the operation of marijuana retail establishments such as customers hanging around, illegal sales, conformance with code requirements, etc. While these are covered by the state law and rules, a case can be made for City involvement in this process. If the City wants to allow retail types of establishments (adult use retail stores, nursery cultivation facilities, dispensaries, and medical marijuana caregiver stores), it could create a City licensing system. This system may or may not need to cover cultivation, testing, and product manufacturing facilities. This could require approval of a license on an annual basis in which the City Council reviews the “performance” of each operation and is able to impose conditions on the license dealing with things like hours of operation, nuisance factors, payment of taxes and fees, etc. This would be similar to the review of a liquor license. The City could also charge an annual license fee. Under the state laws if the City does not issue a local license or revokes a local license the state would not issue/renew the state license. So this would give the City a way to have ongoing oversight over these operations.

Here are some questions to be addressed if the City wants to explore this:

- What facilities would require a license?
- Who would issue the license?
- What would the standards be?
- What would the process be? Application? Notice? Public Hearing?
- What would the fees be?

Attached is a draft of a possible marijuana establishment licensing ordinance that would include all types of both adult-use and medical marijuana facilities. Jon Pottle has reviewed the proposed ordinance.

4. **Land Use Code** – If the City wants to allow either adult use or new medical marijuana establishments here is an outline of what we will need to do to incorporate provisions to regulate adult-use and/or medical marijuana facilities into the ordinance.

- Add definitions of types of facilities the City wants to allow in Section 17. We should use the definitions in the state law. For cultivation facilities we may want to create different uses based on the size/tiers set up in the state rules if the City wants to allow smaller uses in some districts and larger uses in other district. For testing and product manufacturing facilities we could cover both

adult use and medical facilities as combined uses – a testing or production facility for adult use and/or medical marijuana.

- Add a provision in 6.2.3.2 Activities Subject to Planning Board Review that would require PB review for the establishment or expansion of any adult-use or medical marijuana facility – this would assure that such a facility could not be established simply with CEO review.
- Revise the Land Use Table in 7.6 to add the new categories of adult-use and/or medical marijuana facilities to the table. We could add adult use retail stores, dispensaries, nursery cultivation facilities, and caregiver retail stores under Commercial Uses and cultivation, production, and testing facilities under Industrial, Wholesale and Transportation Uses.
- Determine in which districts each of the desired uses should be allowed – probably as “permitted with review”. Here are some ideas for where each of the four types of facilities could be allowed based on the PROPOSED omnibus districts and where similar types of non-marijuana uses are allowed:
 - i. Adult Use Retail Stores, Dispensaries, and Caregiver Retail Stores – TD, IT, CC, MUV, PHD
 - ii. Nursery Cultivation Facilities – R, IT, MUV, PHD
 - iii. Cultivation Facilities – R, PIC, MUV, PHD
 - iv. Product Manufacturing Facilities - PIC, MUV, PHD
 - v. Testing Facilities - PIC, PD, MUV, PHD
- Establish appropriate performance standards to address any issues that are not adequately addressed in the state regulations. If the allowed uses are added as “permitted with review” and require Planning Board review this would address parking, traffic, etc. Here are some issues that we may need to be concerned with for the different uses that are specific to marijuana facilities:
 - i. Retail Type Facilities:
 - a. Hours of operation especially evening and nighttime hours – The adult use rules limit retail operation to between 7 AM and 10 PM unless other hours are approved as part of the operations plan. The City might want to establish fixed hours for all types of retail uses or allow these to be set on a case-by-case basis as part of licensing
 - b. Distance from schools, playgrounds, etc. – The medical marijuana law requires dispensaries to be 500 feet from a public or private school while the adult use rules require 1000 feet unless the City allows less down to 500 feet. Maybe the City should also include playgrounds and athletic fields in this requirement and establish a standard for all retail types of establishments.
 - c. Number or Separation of Uses – There could be a concern about the number of retail type uses in say the traditional downtown. This could be addressed through a dispersal requirement that says retail

type uses cannot be located within X feet of another marijuana retail use. We would need to work that through to see what an appropriate number might be. The City could also limit the number of specific types of uses either in specific land use districts or citywide but there would need to be a system to decide how those “permits” get allocated (this is similar to what communities do for shellfish or mobile vendor permits).

- d. Security – The State rules appear to address this pretty well.
- e. Nuisances – The State rules prohibit hanging around a facility but this could be addressed locally through licensing.

- ii. Cultivation Facilities – Screening and security of any outside growing area is addressed in the state rules including outside lighting and fencing. The lighting standards that were adopted as part of the Omnibus amendments should cover this issue.

- iii. Cultivation, Production, and Testing Facilities – Odor control is addressed in the state rules for adult use facilities by requiring an odor control plan. This may be addressed in the updated medical rules. I think we could include a local requirement that says that any facility that grows, processes or tests marijuana has to have an odor control plan that meets the state requirements.

Attached is a draft of possible amendments to the Land Use Code. This draft is inclusive in allowing all/most types of both medical and adult-use marijuana facilities somewhere in the City subject to Planning Board review and additional local performance standards. It also creates some local performance standards for marijuana establishments. This provides the Council with a starting point for developing a final proposal.

Maine Marijuana Statutes Cheat Sheet

Prepared by MMA Legal Services. For more information on marijuana and municipalities, please contact our office at: 207-623-8428, or visit our Member Center website at www.memun.org.

Marijuana Legalization Act (or Adult Use Marijuana Law) – 28-B M.R.S. Ch. 1

- Legalizes the use and commercial sale of marijuana for recreational (adult use) purposes
- Personal use and cultivation allowed state-wide – can grow up to 3 mature plants, 12 immature plants and unlimited seedlings
- Establishes state licensing process for 4 types of adult use marijuana establishments: cultivation facilities (including nurseries), retail stores, products manufacturing facilities, and testing facilities – **NO** social clubs
- **Default is prohibition** – municipality must vote to “opt in” to operation of adult use marijuana establishments within the municipality (if it wants to allow them)
- State licensing through DAFS, conditioned on municipal approval - will not begin until at least fall 2019
- Municipalities may regulate adult use marijuana establishments locally
- Municipalities may regulate home cultivation, but may not generally prohibit, zone, or license the activity
- State collects sales tax on retail sales and excise tax on wholesale marijuana and marijuana products (20% effective tax rate)– no state-municipal revenue sharing or local option taxation

Maine Medical Use of Marijuana Act – 22 M.R.S. Ch. 558-C

- Legalizes the use and distribution of marijuana for medical purposes by qualifying patients, caregivers, dispensaries, manufacturing facilities, and testing facilities
- Establishes registration requirements through DAFS for medical marijuana caregivers, dispensaries, manufacturing facilities, and testing facilities
- Authorizes registered caregivers to operate medical marijuana retail stores (retail store is undefined)
- Allows six additional registered dispensaries, and unlimited dispensaries after 2021
- Local code enforcement officers can obtain caregiver registration information from State
- Municipalities may regulate registered caregivers, registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities, except municipalities cannot prohibit or limit number of caregivers
- **Default is prohibition** – municipality must vote to “opt in” to operation of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities (if it wants to allow them)
- Medical marijuana establishments already in operation with “municipal approval” as of December 13, 2018 are grandfathered
- Most medical marijuana products sold by registered caregivers and dispensaries subject to 5.5% sales tax. Edible marijuana products subject to 8% sales tax – no state-municipal revenue sharing or local option taxation

Industrial Hemp – 7 M.R.S. § 2231

- Allows cultivation, harvest, possession and processing of industrial hemp by individuals who obtain a state license
- Defines “industrial hemp” as any variety of *Cannabis sativa L.* with a THC concentration below 0.3% on a dry weight basis, that is grown by a licensed grower in compliance with state law
- Statute does not address municipal regulation of hemp – Maine Agriculture Protection Act (7 M.R.S. Ch.6) may apply
- State license **DOES NOT** include manufacturing of CBD oils or other hemp-derived concentrates – manufacture and sale of CBD products, regardless of source, is illegal unless done in compliance with Maine medical or adult use marijuana statutes

To: City Council and Planning Board
From: Ordinance Review Committee
Subject: Draft Land Use Ordinance Amendments – Marijuana Establishments
Date: Revised October 21, 2019

Attached is a draft of possible amendments to the Land Use Ordinance to permit and regulate various types of marijuana establishments allowed under both the state medical marijuana law and rules and the adult use marijuana law and rules. The draft amendments combine the treatment of medical and adult use marijuana facilities into a single set of ordinance provisions. Where state provisions create similar facilities (cultivation, manufacturing, and testing) they are merged in the draft. The draft amendments are intended to supplement the state requirements and therefore build on the state laws and rules and do not repeat what is covered by the state.

The draft amendments address three broad categories: 1) the types of marijuana establishments allowed and regulated by the City, 2) the locations or zoning districts where various types of marijuana establishments will be allowed, and 3) the performance standards that will apply to various marijuana establishments. The draft also includes a provision clarifying that new and expanded marijuana establishments are subject to Planning Board review.

The following draft amendments are based on the recently adopted Omnibus Amendments. The marijuana amendments are highlighted in yellow in this document. The draft has been reviewed by Jon Pottle and has been revised to incorporate his suggestions for edits.

Categories of Marijuana Establishments

The state medical marijuana law/rules and the state adult use law/rules create a number of categories of marijuana establishments that are licensed and regulated by the state. The state has differing rules and requirements for the various types of establishments. In some cases, the establishments in the two sets of provisions are similar while in other cases they are different. The categories of marijuana establishments created by the state fall into four broad categories:

- Establishments for the cultivation of marijuana
- Establishments for the manufacturing of marijuana-based products
- Establishments for the testing of marijuana and marijuana-based products
- Establishments for the sale or distribution of marijuana and/or marijuana-based and marijuana-related products

The first step in developing the possible ordinance amendments is to create a set of marijuana related uses that can be added to the Table of Land Uses and a definition for each of the proposed uses. Here is a draft at a set of possible uses and a definition for each use and for related terms. The City Council can choose to include all or some of these uses in the ordinance if it decides to allow marijuana establishments in the City. The appropriate definitions can then be added to Section 17 of the Land Use Ordinance.

- **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.
- **Marijuana Plant – Mature:** A marijuana plant that is flowering.
- **Marijuana Seedling:** A marijuana plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width.

Permitted Locations

The second step in developing the draft Land Use Ordinance amendments is to decide where each of the categories of marijuana establishments will be allowed. The following table uses excerpts from the Table of Land Uses and adds the eight categories of marijuana related uses to the table in the appropriate locations. The proposed edits to the table reflect the recommendations of the City's recreational marijuana study committee from a few years ago but the City Council could chose to include only some of these types of marijuana establishments. The highlighted areas show the changes to the current ordinance.

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	Cobossee Corridor	ECR	Education/Community Recreation
MUV	Mixed Use Village	PHD	Planned Highway Development
IT	Intown Commercial	CPD	Cobossee 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 ¹¹	P ¹¹	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 ⁸	P	N	N
Automobile Repair	N	N	N	P	N	N	N	N	P	P	N	N	P ⁶	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 ⁹	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 ⁷	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 ⁶	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 ⁶	P	P	N
Laundromat	N	N	N	N	N	N	N	P	N	P	N	N	P	P	P	N
<u>Marijuana Nursery Cultivation Facility¹³</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>N</u>	<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>P</u>	<u>P</u>	<u>N</u>
<u>Marijuana Retail Store¹³</u>	<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>
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> ¹³	<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> ¹³	<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 ⁶	P	P	N
Offices up to 2,000 sq. ft.	N	N	N	P	P ⁹	N	P	C	C	P	N	P	P	P	P	P ^{9&10}
Offices 2,000 sq. ft. or larger	N	N	N	N	N	N	P	P	P	P	N	P	P ⁶	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 ⁶	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 ⁶	P	N	N
Service Business	N	N	N	N	P ⁹	N	P	P	P	P	N	P	P ⁶	P	P	P ^{9&10}

	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

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

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 ⁶	N	N	N	N	N	N
Fuel Storage Facility	N	N	N	N	N	N	N	N	P	P ⁶	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 ⁶	N	P ⁷	P ⁶	P	P ⁷	N

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
<u>Medical Marijuana Cultivation Facility – Tier 1¹³</u>	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
<u>Medical Marijuana Cultivation Facility – Tier 2¹³</u>	N	N	N	P	N	N	N	N	P	P	N	N	P	P	N	N
<u>Marijuana Cultivation Facility – Tier 3¹³</u>	N	N	N	P	N	N	N	N	P	N	N	N	P	P	N	N
<u>Marijuana Cultivation Facility – Tier 4¹³</u>	N	N	N	P	N	N	N	N	P	N	N	N	P	P	N	N
<u>Marijuana Products Manufacturing Facility¹³</u>	N	N	N	N	N	N	N	N	P	N	N	N	P	P	N	N
<u>Marijuana Testing Facility¹³</u>	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
Trucking & Freight Facility	N	N	N	N	N	N	N	N	C	P ⁶	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 ⁷	N	P	N	P	N
Windmill Small	N	P	P	C	P	P	P	P	P	C	C	P	P	P	P	P	P	P
Windmill Mid-size	N	N	N	P	N	N	N	N	N	P	P	P	N	N	P	N	N	N
Windmill Large	N	N	N	P	N	N	N	N	N	P	P	P	N	N	P	N	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. If the applicant fails to obtain an active license within that period, all City approvals and permits are void.

Performance Standards

The third piece is to decide if the City wants to have any performance standards. To supplement the standards in the state rules the City could consider enacting performance standards governing various types of marijuana establishments. The following is possible language to create a Section 10.28 that will create those standards;

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) feet 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). 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. If the applicant fails to obtain an active license within that period, all City approvals, licenses and permits are void.

Planning Board Review

To provide for Planning Board review of proposals to establish a new or expanded marijuana establishment, the ordinance should be amended to specifically provide for that review. This can be done by adding a new item in Section 6.2.3.2 Activities Subject to Planning Board Review. Here is language that would accomplish that:

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.

To: City Council
From: Ordinance Review Committee
Subject: Marijuana Establishments Licensing Ordinance
Date: Revised October 21, 2019

If the City wants to exercise ongoing oversight of allowed marijuana establishments to supplement state oversight, the City could enact a licensing requirement for some or all allowed marijuana establishments. The Committee has put together a draft of an ordinance to license all adult use and medical marijuana establishments in the City. The draft Land Use Code provisions provide for limits on what types of marijuana establishments can be located where in the City and the provisions for Planning Board review assure that the initial operation meets the City's requirements. The licensing ordinance provides for annual licensing of all marijuana establishments to allow the City Council to review the operation of each facility once a year and to address any issues with the operation. If the situation warrants, the Council can refuse to issue or renew a license. Since state approval is tied to municipal approval of each establishment this creates a powerful tool for the Council to assure that any allowed establishments do not create problems for the City. The draft of the licensing ordinance has been reviewed by Jon Pottle and his suggested edits have been incorporated into the draft.

The draft is focused on the possible impacts of a marijuana establishment on the City, public safety, impacts on the sewer system, operations, lighting, odors, etc. It does not deal with the technical issues of how marijuana is cultivated, processed, tested, etc. since these topics are addressed in detail in the state laws and regulations. The draft tries to keep the process reasonably simple and straightforward. The draft establishes three different sets of requirements, one for first-time applications, a second for renewal applications, and a third hybrid for applications involving the expansion or relocation of a facility.

The key issues the Council should address in considering this draft a possible licensing ordinance are the process components (application submission requirements, Council procedures, etc.), the issues addressed, and the standards for reviewing applications for licenses.

Draft Marijuana Establishment Licensing Ordinance

Section 1. Authority

This ordinance is adopted by the City under its home rule authority, Title 30-A M.R.S. Section 3001 and in accordance with the provisions of Title 28-B M.R.S Chapter 1 Subchapter 4 which authorizes municipal regulation of adult use marijuana establishments and Title 22 M.R.S Chapter 558-C Section 2429-D which authorizes municipal regulation of medical marijuana establishments.

Section 2. License Required

No marijuana establishment as defined in this ordinance shall operate within the City of Gardiner unless the establishment is currently licensed by the City in accordance with the provisions of this ordinance.

Section 3. Term of License

A license for a marijuana establishment shall be valid for one year from the date that the license is approved by the City Council unless otherwise specifically limited by vote of the City Council. The City Council may approve a license for less than one year to coordinate state and City licensing timeframes or as a conditional license to allow an applicant to address conditions of approval on the license.

Section 4. Licensing Procedures

Applications for a marijuana establishment license shall be processed and reviewed according to the following procedures.

4.1. Application Submission

An application for a marijuana establishment license shall be submitted to the City Clerk. Applications for renewal of a license or for the renewal of a license involving the expansion or relocation of the establishment must be submitted at least forty-five (45) days prior to the expiration of the current license. The application must include all of the materials set forth in the submission requirements of Section 5, 6 or 7 depending on the type of application.

4.2. Review of Application for Completeness

The City Manager or her/his designee shall review the application for completeness in accordance with the submission requirements of Section 5, 6 or 7. If the City Manager or her/his designee finds the application to be complete, he/she shall notify the City Clerk that the application should be advertised for public hearing and placed on the City Council's agenda. If the City Manager or his/her designee finds that the application is not complete, he/she shall notify the applicant of the additional materials required. Upon receipt of additional information the City Manager or her/his designee shall repeat the process until the application is deemed to be complete. An application shall not be advertised for public hearing or scheduled for City Council consideration until the application is found to be complete.

4.3. Public Hearing

The City Council shall hold a public hearing on a completed application for a marijuana establishment license. The notice of the public hearing shall be posted in accordance with City procedures and shall be advertised in a newspaper that is widely circulated in the City at least seven (7) days prior to the public hearing. The notice shall include the date, time and location of the hearing together with the name of the applicant, the type of marijuana establishment for which the license is sought and the location of the establishment identified by both street address and Tax Map and Lot number.

4.4. Council Action

Within thirty (30) days of the public hearing, the City Council shall review the application for conformance with the applicable standards set forth in Section 5, 6 or 7 depending on the type of licensing. The City Council shall make findings of fact as to the application's conformance with the standards of approval. The Council shall act to approve the granting of the license, to deny the granting of the license, or to approve the granting of the license with conditions. The Council may grant conditional approval of a license for a period of less than one year. When an application involves the renewal and relocation of an existing license, the City Council may allow for an overlap of up to ninety (90) days between the existing license and the renewal license to allow for the preparation of the new facility. When the City Council allows overlapping licenses, no retail sales shall occur at the new location until retail sales at the prior location have ceased.

Section 5. First-Time License Application

An application for a new marijuana establishment license shall be processed and reviewed in accordance with the following:

5.1. Submission Requirements

An application for a marijuana establishment license for an establishment that is not currently licensed by the City of Gardiner shall include all of the following information:

- 5.1.1. A completed and signed application form (provided by the City)
- 5.1.2. The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 8.
- 5.1.3. If the application is for an adult use marijuana establishment, a copy of the applicant's approved state conditional license including all submissions made to obtain that license.
- 5.1.4. If the application is for a medical marijuana establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed including all materials submitted to the state to obtain those approvals.
- 5.1.5. A copy of the Planning Board's notice of decision approving the facility in accordance with the Land Use Code. If the Planning Board's approval included any conditions of approval, written documentation setting forth how those conditions have been or will be met.
- 5.1.6. A written report prepared by the Code Enforcement Officer documenting the proposals compliance with all applicable land use, building, plumbing and electrical codes. If the report of the Code Enforcement Officer identifies any areas of noncompliance, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.
- 5.1.7. A written report prepared by the Fire Chief documenting the proposals compliance with all applicable fire and life safety codes. If the report of the Fire Chief identifies any areas of noncompliance, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.
- 5.1.8. A written report prepared by the Police Chief addressing the adequacy of provisions to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment. If the report of the Police Chief identifies any areas of concern, the

applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.1.9. If the proposed establishment will discharge to the public sewer system, a written report prepared by the Superintendent of the Wastewater Treatment System addressing the potential implications of discharging wastewater to the sewer system and providing treatment for this material including the need for any pre-treatment of discharges. If the report of the Superintendent identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.2 Approval Standards

The City Council shall approve an application for a new marijuana establishment license only if it finds that all of the following standards are met or will be met as a result of conditions of approval applied to the license:

5.2.1 The applicant has obtained a conditional license for the proposed adult-use marijuana establishment or approval for the proposed medical marijuana establishment from the State of Maine.

5.2.2. The proposed establishment conforms or will conform to the approval of the Planning Board including any conditions of approval prior to receiving City authorization to open.

5.2.3 The proposed establishment conforms or will conform to the all applicable land use, building, plumbing and electrical codes prior receiving City authorization to open.

5.2.4 The proposed establishment conforms or will conform to the all applicable fire and life safety codes prior receiving City authorization to open.

5.2.5 The applicant has made or will make adequate provisions to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment prior receiving City authorization to open.

5.2.6 The proposed establishment will not discharge effluent or process water to the public sewer system that will exceed the capacity of the system to transport and treat the material and that any requirements for pre-treatment or limits on the quantity of quality of discharges will be met.

Section 6. Renewal License Applications

An application for the renewal of a marijuana establishment license shall be processed and reviewed in accordance with the following:

6.1. Submission Requirements

An application for the renewal of a marijuana establishment license that is currently licensed by the City of Gardiner and that will occupy the same space as existing operation shall include all of the following information:

- 6.1.1. A completed and signed application form (provided by the City)
- 6.1.2. The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 8.
- 6.1.3. If the application is for an adult use marijuana establishment, written documentation that the applicant has applied for a renewal of its state license.
- 6.1.4. If the application is for a medical marijuana establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed.
- 6.1.5. A written report prepared by the Code Enforcement Officer documenting the establishment's ongoing compliance with all applicable land use, building, plumbing and electrical codes. The report shall identify any enforcement actions or other concerns during the prior year. If the report of the Code Enforcement Officer identifies any areas of noncompliance or concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.
- 6.1.6. A written report prepared by the Fire Chief documenting the establishment's on-going compliance with all applicable fire and life safety codes. The report shall include the results of any inspections performed by the department and records of all calls for service during the prior year and the reason for each call. If the report of the Fire Chief identifies any areas of noncompliance or concern about use of the fire service, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.
- 6.1.7. A written report prepared by the Police Chief documenting the ongoing adequacy of provisions to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment. The report of the Police Chief shall document the number of calls for service and the reason for the calls during the prior year. If the report of the Police Chief identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

6.1.8. If the establishment discharges to the public sewer system, a written report prepared by the Superintendent of the Wastewater Treatment System addressing the impacts of the wastewater on the sewer system and sewage treatment plant including compliance with any pre-treatment requirements or limitations on the volume of discharges. If the report of the Superintendent identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

6.2 Approval Standards

The City Council shall approve an application for the renewal of a marijuana establishment license only if it finds that all of the following standards are met or will be met as a result of conditions of approval applied to the license:

6.2.1 The applicant has applied to the State of Maine for the renewal of its adult-use marijuana establishment license or approval as a medical marijuana establishment.

6.2.2 The applicant has addressed any complaints or violations with respect to all applicable land use, building, plumbing and electrical codes during the prior year in a timely manner to the satisfaction of the Code Enforcement Officer and the establishment is or will be in conformance with all applicable code requirements.

6.2.3 The applicant has addressed any complaints or violations with respect to all applicable fire protection and life safety codes during the prior year in a timely manner to the satisfaction of the Fire Chief and the establishment is or will be in conformance with all applicable code requirements.

6.2.4 The applicant has addressed any complaints or violations with respect to provisions for the security of the establishment and to avoid nuisances from the use of the establishment during the prior year in a timely manner to the satisfaction of the Police Chief and has made adequate provisions to prevent the recurrence of any problems.

6.2.5 If the establishment discharges to the public sewer system, the applicant has addressed any discharges of effluent or process water to the public sewer system that has exceeded the capacity of the system to transport and treat the material including any requirements for pre-treatment during the prior year to the satisfaction of the Superintendent of the Wastewater Treatment System and has made adequate provisions to prevent the recurrence of any problems.

Section 7. Renewal License Application Involving an Expansion or Relocation of the Facility

An application for the renewal of a marijuana establishment license that involves either the relocation of the establishment to a new location or the expansion of the facility shall be processed and reviewed in accordance with the following:

7.1. Submission Requirements

An application for the renewal of marijuana establishment license that is currently licensed by the City of Gardiner in which the location of the establishment is proposed to be changed or the size of the establishment increased shall include all of the following information:

- 7.1.1. A completed and signed application form (provided by the City)
- 7.1.2. The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 8.
- 7.1.3. If the application is for an adult use marijuana establishment, written documentation that the applicant has applied for renewal of its state license. The applicant shall provide all documentation provided to the state in support of the request for renewal of its license.
- 7.1.4. If the application is for a medical marijuana establishment, written evidence that applicant has applied for or obtained all state approvals for the type of facility proposed.
- 7.1.5. A copy of the Planning Board's notice of decision approving the relocated or expanded facility in accordance with the Land Use Code. If the Planning Board's approval included any conditions of approval, written documentation setting forth how those conditions have been or will be met.
- 7.1.6. A written report prepared by the Code Enforcement Officer documenting the existing facility's ongoing compliance with all applicable land use, building, plumbing and electrical codes. The report shall identify any enforcement actions or other concerns during the prior year.
- 7.1.7. A second written report prepared by the Code Enforcement Officer documenting the compliance of the proposal for a relocated or expanded facility with all applicable land use, building, plumbing and electrical codes. If the report of the Code Enforcement Officer identifies any areas of noncompliance, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

Medical Marijuana Cultivation Facility – Tier 2	\$1,500
Marijuana Cultivation Facility – Tier 3	\$2,000
Marijuana Cultivation Facility – Tier 4	\$2,500
Marijuana Products Manufacturing Facility	\$2,000
Marijuana Testing Facility	\$500
Marijuana Retail Store	\$1,500
Medical Marijuana Registered Caregiver Retail Store	\$1,000
Medical Marijuana Registered Dispensary	\$1,000
Marijuana Nursery Cultivation Facility	\$1,500

This is nonrefundable and will be used to offset the City's costs in the review of the application and in the oversight with respect to conformance of the establishment with respect to the license and any conditions of approval.

Section 9. Definitions

- **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 an 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.
- **Marijuana Plant – Mature:** A marijuana plant that is flowering.

- **Marijuana Seedling:** A marijuana plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width.

Section 10. Amendments

The City Council may amend this ordinance at any time in accordance with the City's procedures for the adoption and amendment of an ordinance.

Section 11. Severability and Validity

If a court of law in the State of Maine finds a portion of this ordinance to be invalid for any reason or purpose, the balance of the ordinance shall remain in effect and shall continue to apply to marijuana establishments. If a court of law finds the entire ordinance invalid, that action shall automatically void the municipal opt-in provisions of Title 28-B M.R.S Chapter 1 Subchapter 4 which authorizes municipal regulation of adult use marijuana establishments and Title 22 M.R.S Chapter 558-C Section 2429-D which authorizes municipal regulation of medical marijuana establishments. In such case no new or expanded marijuana establishments shall be permitted in the City of Gardiner but marijuana establishments with a valid City license as of the date of any such legal action shall be allowed to continue to operate in accordance with that license and the City shall, if requested, certify to the State that an application for renewal of a state license or approval is in conformance with local requirements.