



**GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET**



Meeting Date	07/19/2023	Department	City Clerk
Agenda Item	3f. Public Hearing regarding Changes to the City Code regarding Fees		
Est. Cost	N/A		

Background Information	Propose to move the Fee schedule out of City Code.
	Please see the attached documentation. Mayor Hart will open the Public Hearing.

Requested Action	N/A
City Manager and/or Finance Review	
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 Fee Schedule

CODE ENFORCEMENT: Building Permits

Residential one and two family dwellings

New/additions/alterations (SF includes garage, basement, deck/porch)	\$0 application fee plus \$0.15/SF
Roofing/Siding/Roof mounted solar (SF footprint of portion roofed or sided)	\$0 application fee plus \$0.05/SF
Impervious surface (SF includes driveways/roads/paved patios):	\$0 application fee plus \$0.05/SF

Residential multi-family dwellings

New/additions/alterations (SF includes garage, basement, deck/porch):	\$100 application fee plus \$0.10 /SF
Roofing/Siding (SF of structure footprint of portion roofed or sided)	\$0 application fee plus \$0.05/SF
Impervious surface (SF includes driveways/roads/parking lots):	\$0 application fee plus \$0.05/SF

Non-residential buildings

New/additions/alterations (SF includes garage, basement, deck/porch):	\$100 application fee plus \$0.15/SF
Roofing/Siding (SF of structure footprint of portion roofed or sided)	\$50 application fee plus \$0.05/SF
Impervious surface (SF includes driveways/roads/parking lots):	\$50 application fee plus \$0.07/SF

Residential accessory structures

Structures up to 144 square feet:	\$0
Structures greater than 144 square feet:	\$50
Ground Mounted Accessory Solar Array	\$0.15 per square foot

Commercial accessory structures

Structures up to 144 square feet:	\$50
Structures greater than 144 square feet:	\$50 application fee plus \$0.15/SF
Ground Mounted Accessory Solar Array	\$50 application fee plus \$0.15 /SF

Internal Plumbing permits

\$10 per fixture min of \$40

Subsurface wastewater permits

Complete system	\$265
Field only	\$150
Septic tank only	\$150



City of Gardiner Fee Schedule

CODE ENFORCEMENT: Other Permits

Blasting	\$25
Change of use	\$25
Chicken keeping permit	\$10
Demolition Permit	\$25
Driveway/E911 address	\$25
Excavation/Fill	\$25
Fencing	\$25
Flood Plain (major)	\$125
Flood Plain (minor)	\$50
Home occupation	\$25
Manufactured home placement	\$25
Manufactured home removal	\$25
Sewer Connection	\$25
Shoreland	\$125
Sign permit	\$25 per sign
Sidewalk café	\$10
Sludge Management Permit	\$300
Sludge management Renewal	\$150
Solar Electric Production Facility	\$100 application fee plus \$1500 per DC megawatt of the maximum installed generation capacity or portion thereof
Street opening (in city right of way) (Paved)	\$25/sq yd
Street opening (in city right of way) Gravel	\$9 sq yd (in code. New on this schedule)
Telecommunications tower	\$250
Antenna attached to tower or alternative structure	\$100
Water connection	\$25
Windmills Under 2 KW:	\$50
Windmills 2KW to 10KW	\$100
Windmills over 10KW	\$150



City of Gardiner Fee Schedule

CODE ENFORCEMENT: Planning Board/Land use reviews

Code Enforcement Officer review:	\$25
Planning Board	\$125
Site plan review	\$250
Shoreland Zoning	\$125
Site Inventory and Analysis	\$125
Subdivision (includes preliminary and Final)	\$250 plus \$100 per lot
Subdivision amendment	\$50

CODE ENFORCEMENT: Appeals Board

Variance Appeal	\$25
Administrative Appeal	\$0

CODE ENFORCEMENT: Certificate of appropriateness (Historic District)

Code Enforcement Officer Review	\$25
Historic Preservation Commission	\$50

CODE ENFORCEMENT: Cannabis Licenses

Medical Cultivation Tier 1 up to 30 mature /60 immature plants	\$500
Medical Cultivation Tier 2 up to 2000 square feet of plant canopy	\$1500
Adult Use/Medical Medical Cultivation Tier 3 < 7000 sq ft of canopy	\$2000
Adult Use/Medical Cultivation Tier 4 >7000 sq ft of canopy	\$2500
Manufacturing Facility	\$2000
Testing Facility	\$500
Retail Store	\$1500
Medical Caregiver Retail Store	\$1000
Medical Registered Dispensary	\$1000
Nursery Cultivation Facility	\$1500

CODE ENFORCEMENT: Fines and penalties

After the fact permits	Fees doubled min of \$25
Property Maintenance fines	\$25 per day



City of Gardiner Fee Schedule

City Clerk's Office: Licenses/Permits

Adult Business	\$250
Automobile Recycling Business (5 year)	\$250
Beano/Bingo/Games of chance/pinball	\$10
DBA-Doing Business As (required for all businesses)	\$10
Food Truck / Mobile Food Vending Units: Annual	\$100
Food Truck / Mobile Food Vending Units: Three (3) Day	\$20
Junkyard-(<100 ft highway) (Annual)	\$200
Junkyard-(>100ft highway) (Annual)	\$50
Liquor	
Liquor/bottle club (1-50 seats)	\$75
Liquor/bottle club (51-100)	\$100
Liquor/bottle club (101+)	\$150
Catering Off Premises (liquor is served) (per event)	\$10
Outside Consumption Permit (Annual)	\$25
Tavern keeper	\$25
Pawn Shop	\$50
Sales special/pop-up/etc.	\$25
Shooting galleries/pool hall/bowling alley	\$50
Solid Waste Collection	\$25 plus \$5 per additional truck
Special Event-Exhibitions and shows-Minor	\$50
Special Event-Exhibitions and shows-Major	\$100
Entertainment/Special Amusements (Annual)	\$75
Mass Gathering	\$550
Street Seller: Per Event	\$20
Street Seller: Annual	\$50
Street seller (Farmers Market): Annual	\$10
Taxi/vehicles for hire	\$50
Victualers license: Annual	\$50
Victualers license: Festival/per event	\$25
Victualers license-nonprofit: Annual	\$10



City of Gardiner Fee Schedule

CITY CLERK'S OFFICE: Records and Services

Birth Certificate	\$15
Birth Certificate additional copies	\$6
Death Certificate	\$15
Death Certificate additional copies	\$6
Burial Permit- Funeral Home	\$20
Municipal Cemetery Burial Permit	\$20
Marriage Certificate	\$15
Marriage Certificate additional copies	\$6
Marriage License	\$40
Marriage Ceremony	\$50
Notary	\$5
Dog License altered	\$6
Dogs License unaltered	\$11
Dogs License late fee	\$25
DD214 Holding	\$4

POLICE DEPARTMENT: Municipal Boat Fees

Day Use slips: Overnight (one night only)	\$30
Seasonal: Residents (Gardiner and S. Gardiner)	\$550
Seasonal: Non Residents	\$650

Purpose:

Edit City Code to remove fees and refer to the fee schedule adopted by City Council.

These sections to be edited in the City Code are standard language referring to the adopted fee schedule:

- 3.2.1 Building Permits
- 5.2 Special Amusements
- 5.8.3 Solid Waste Collection
- 5.9.3 Adult Business
- 5.10.8 Cannabis Establishment Licensing Ordinance (and change from Marijuana)
- 5.11.3 Mobile Food Vending Units
- 11.2.7.6.3 Gardiner Landing
- 13.10.4 Blasting
- 17.7.3 Prohibiting Mass Gatherings (and delete the word 'Prohibiting')
- 25.4.1 Excavations
- 29.1.1 and 29.1.2 Port Wardens: change to Harbor Master, City now appoints, no fee.

The following sections are outdated and recommend deletion of an entire section:

13.4 Alarm Systems

Outdated language about technologies used. The City encourages use of alarm systems for safety. If there are issues with new systems, they can be and are addressed in other ways.

25.2.4 Signs and Obstructions: Signs

Outdated code. Sign restrictions/requirements are fully covered in the Land Use Ordinance.

25.3.12: Oversized Loads

Do not currently enforce. This issue is covered by State law.

25.3.20 (.1; .2; .3) Parking for Physically Handicapped Persons

Written for an employee of a business to have a dedicated parking spot. The City has never had an application for this. Would address individually if ever requested.

25.4.12 (Excavations:) Street Openings Beyond the Scope of this Article

Street openings referred to in this section are easily covered in the other portions of this code.

City of Gardiner Fee Schedule approved by City Council:

- Was reorganized. All word edits are highlighted on new version.
- Changes:
 - o Added items that are in city code which were missing on this:
 - street opening Gravel
 - Adult Business
 - Mass Gatherings
 - o Deleted DD214 charge

FYI: Code sections will be renumbered after changes are decided and before posting edited City Code. Table of Contents will be updated at that time.

Included:

1. Abbreviated Code with sections that have edits red-lined,
2. Modified Fee Schedule.

Available: Entire Code red-lined.

CITY OF GARDINER CODE

the City Clerk upon certification by the City Manager that the license or permit holder has failed to meet its obligations under the workout agreement concerned.

1.4.1.2.3 The City Council, upon request of the applicant, the City Manager, City Code Enforcement Officer or City Health Officer, shall have authority to waive the requirement of Section 1.4.1.2.1.(a) above whenever, in their judgment, waiver is necessary to address a public health or safety concern, or is otherwise in the best interests of the City of Gardiner.

1.4.1.2.4 Any application for a license, permit or renewal required under this chapter not granted within 30 days shall be deemed denied.

Section 1.4.2 Fees

The City Council shall annually adopt a schedule of fees for all licenses required by this chapter, said schedule to remain in effect for the ensuing fiscal year and until a new annual schedule of fees is adopted by the City Council. Copies of the approved schedule of fees shall be made available to the general public by the City Clerk's office.

The City Council may waive or reduce the scheduled fees for any nonprofit or civic organization that serves the interests of the City's residents, as determined by the City Council

Required Licenses: ~~Adult Business, Automobile Recycling Business, Beano/Bingo/Games of chance/pinball, Doing Business As, Food Truck/Mobile Vending Units, Exhibitions/Shows, Hawkers & Peddlers/Street Sellers~~ Junkyards, Liquor (seating: 1-50, 51-100, 101+), ~~Catering,~~ Outside consumption, Pawn, ~~Shopales, Special/pop-up Roving/On-Wheels,~~ Shooting Galleries/~~pool hall/bowling alley, Solid Waste Collection,~~ Special Amusement, ~~Special Events – Exhibitions and shows,~~ Street Sellers (discounted rate for Farmer's Market), ~~Taxi,~~ Victualler, Tavern Keeper

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Section 1.4.3 Expiration

All annual licenses and permits shall expire on December 31st next after date of issuance unless otherwise specifically provided, and no pro rata adjustments shall be made.

Section 1.4.4 Special Events Permit²

1.4.4.1 Purpose

The purpose of this Ordinance is to provide the City of Gardiner with a mechanism for regulating the dates, times, location and conditions under which permittees are authorized to make use of City Property in a manner which is consistent with public health, safety and welfare and which promotes the use of City Property for special recreational, entertainment, or

²Adopted: March 7, 2012; Effective: March 7, 2012; Amended: January 8, 2014

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CHAPTER 3.2

Building Permits

SECTION

3.2.1 Permits Required.

Section 3.2.1 Permits Required

No person, firm or corporation shall erect or alter or otherwise change any building or structure including mobile homes (normal maintenance excepted) without first obtaining a permit from the building inspector or code enforcement officer. The permit shall include a fee in the amount as set forth in the schedule of fees adopted by the City Council. The fee for such permit shall be as follows:

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See updated fee table set by City Council.

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TITLE 5

BUSINESS AND OCCUPATIONS

CHAPTER

- 5.1 Charitable Solicitations**
- 5.2 Special Amusement Permits**
- 5.3 Dance Halls**
- 5.4 Nudity Control**
- 5.5 Junk Dealers**
- 5.6 Cable TV**
- 5.7 Street Sales**
- 5.8 Solid Waste Collection**
- 5.9 Adult Business Establishments**
- 5.10 ~~Marijuana-Cannabis~~ Establishment Licensing**
- 5.11 Mobile Food Vending Units**

Collateral references: For similar provisions, see Nimlo Model Ordinance Service, chapters 4 & 6.

CHAPTER 5.1

Charitable Solicitations

SECTION

- 5.1.1 Permit Required
- 5.1.2 Application for Permit
- 5.1.3 Standards for Granting or Denying Permit
- 5.1.4 Permit Form
- 5.1.5 Appeal from the Denial of a Permit

Section 5.1.1 Permit Required

No person shall solicit contributions for any charitable purpose within the City of Gardiner without a permit from the city clerk authorizing such solicitation; provided, however, that the provisions of this section shall not apply to charitable solicitations conducted by established organizations of the community within their own membership.

Cross references: Solicitation of charitable funds, see 1954 R.S. ch. 25, ss. 274-A to 274-D.

Section 5.1.2 Applications for Permit

An application for permit to solicit shall be made to the city clerk on forms to be provided by him, at least 15 days prior to the date on which the requested permit would become effective;

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CHAPTER 5.2

Special Amusement Permits

SECTION

- 5.2.1 Purpose
- 5.2.2 Definitions
- 5.2.3 Permit Required
- 5.2.4 Inspections
- 5.2.5 Suspension or Revocation of a Permit
- 5.2.6 Rules and Regulations
- 5.2.7 Permit and Appeal Procedure
- 5.2.8 Admission
- 5.2.9 Penalty
- 5.2.10 Separability

Section 5.2.1 Purpose

The purpose of this ordinance is to control the issuance of special permits for music, dancing or entertainment facilities licensed by the State of Maine to sell liquor as required by 28 A. subsection 702.

Section 5.2.2 Definitions

Entertainment: For the purposes of this ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Licensee: For purposes of this section, "Licensee" shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of such licensee.

Section 5.2.3 Permit Required

No licensee for the sale of liquor to be consumed on his licensed premises shall permit in that facility, any music, except radio or other mechanical device, any dancing or entertainment of any sort, unless the licensee shall first obtain from the municipality in which the licensed premises or facility is situated, a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residential address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described

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either denied or revoked; and if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony, and if so, the applicant shall describe specifically those circumstances and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

No permit shall be issued for anything, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

~~The fee for a special amusement permit shall be \$25.00. The application shall include a fee in the amount as set forth in the schedule of fees adopted by the City Council.~~

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date that the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles, or bylaws.

A permit shall be valid only for the license year of the applicant's existing liquor license.

Section 5.2.4 Inspections

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with an ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty, provided that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises at the

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time it is sought to make the inspection.

Section 5.2.5 Suspension or Revocation of a Permit

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

Section 5.2.6 Rules and Regulations

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this ordinance.

Section 5.2.7 Permit and Appeal Procedures

5.2.7.1 Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days after the public hearing. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit which had been denied.

5.2.7.2 Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal Board of Appeals as defined in 30 M.R.S.A. subsection 2411. The municipal Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

Section 5.2.8 Admission

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

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Section 5.2.9 Penalty

Whoever violates any of the provisions of this ordinance shall be punished by a fine of not more than **One Hundred Dollars (\$100.00)**, to be recovered on complaint, to the use of the City of Gardiner.

Section 5.2.10 Separability

The invalidity of any provision of this ordinance shall not invalidate any other part.

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CHAPTER 5.8

Solid Waste Collection

SECTION

- 5.8.1 Purpose
- 5.8.2 Definitions
- 5.8.3 Licenses; Application
- 5.8.4 Recycling Collection

Section 5.8.1 Purpose

The intent of this chapter is to protect the health, safety, and general well-being of the residents of the City of Gardiner; to require the licensing of commercial haulers of solid waste and recyclable materials; to provide residential clients of said haulers with curbside rubbish and recycling collection; to preserve and enhance the quality of our common environment; and to comply with State waste management and recycling laws and the city's contract with **Hatch Hill Solid Waste Facility**.

Section 5.8.2 Definitions

Commercial Waste Hauler: "Commercial waste hauler" means any person engaged in the collection and transportation of solid waste for a fee or other compensation.

Dispose; Disposal: "Dispose" means to discharge, dispose, deposit, dump, incinerate, spill or place any solid waste into or on any land, air or water or facility. "Disposal" means the discharge, disposal, deposit, dumping, incineration, spilling or placing of any solid waste.

Person: "Person" means any individual, firm, corporation, partnership, association or any other legal entity or agents of any of the above, and the term shall include the singular and plural as appropriate.

Recycling: "Recycling" means the collection, separation, recovery, reprocessing, and sale or reuse of manufactured materials or residues that would otherwise be disposed of or processed as waste for reuse in the same form or as part of a different product, other than through combustion or use as fuel for the generation of electricity.

Recyclable Materials: For the purpose of this ordinance, "recyclable materials" means those materials, products or categories of solid waste designated by the city manager as requiring separation from the waste stream for recycling or for health and safety reasons. Recyclable materials covered under this ordinance include but are not limited to steel and other metal cans, clear glass bottle and jars, and newspapers. The city manager shall enlarge or otherwise modify this initial list of materials from time to time.

Resident: "Resident" is any person who owns or rents a dwelling or other property improved for occupation within the City of Gardiner.

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Rubbish: For the purpose of this ordinance, "rubbish" means solid waste generated by residents in particular.

Solid Waste: "Solid Waste" means useless, unwanted or discarded solid materials with insufficient liquid content to be free-flowing, including, but not limited to rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include septic tank sludge or agricultural wastes. The fact that a solid waste or constituent of the waste may have a value or another use or may be sold or exchanged does not exclude it from this definition.

Section 5.8.3 Licenses; Application

5.8.3.1 No person shall be engaged in the business of collecting or transporting rubbish or recyclable materials as a going business for pay or compensation within the city unless they are licensed in accordance with this law.

5.8.3.2 Any person, corporation or other concern wanting to collect rubbish and recyclables in the City of Gardiner shall make a written application for a license to the city manager, including the following:

5.8.3.2.1 Proof of valid registration issued by the secretary of state of the State of Maine for all collection vehicles which are to operate in Gardiner;

5.8.3.2.2 Proof of valid inspection stickers for all vehicles;

5.8.3.2.3 Proof of a liability insurance policy, issued by an insurance company authorized to do business in the State of Maine, for all collection vehicles in accordance with State laws regulating commercial and solid waste transporters, which shall be in full effect for the duration of the licensing period; and

5.8.3.2.4 Such further information as the city council or city manager might reasonably require. Any changes to the application form will be reported to the city council.

5.8.3.3 ~~The fee for this application is \$25.00 per year for one vehicle and an additional \$5.00 for each additional collection vehicle to be operated in Gardiner by the same applicant. The application shall include a fee in the amount as set forth in the schedule of fees adopted by the City Council.~~

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5.8.3.4 Recipients of a license shall receive a permit sticker for each vehicle which is to be prominently displayed on each vehicle at all times within the City of Gardiner.

5.8.3.5 Each licensed rubbish hauler shall be responsible for the disposal of all rubbish that s/he collects within the City of Gardiner.

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5.8.3.6 Rubbish and recyclable materials collected in Gardiner are to be disposed of or recycled at the **Hatch Hill Solid Waste Disposal Facility located adjacent to Route 105 in Augusta.**

Section 5.8.4 Recycling Collection

5.8.4.1 Licensed rubbish haulers must provide curbside collection of materials designated as recyclable by the city manager or city council at least once per month to all of their clients and tenants of serviced properties who live in buildings of five dwelling units or less.

5.8.4.2 The trigger date for this recycling requirement is March 1, 1992, or the date that the city recycling truck is initially delivered and operable, whichever comes first.

5.8.4.3 Haulers shall make their initial curbside recycling collection no later than 30 days after the trigger date.

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CHAPTER 5.9

Adult Business Establishments

SECTION

- 5.9.1 Purpose
- 5.9.2 Definition
- 5.9.3 Prohibition
- 5.9.4 Penalty

Section 5.9.1 Purpose

The city council finds that, because of their unique and potentially offensive nature, Adult Business Establishments can have a blighting influence on the surrounding neighborhood if permitted at all in certain zones, or if allowed to concentrate in certain other zones within the city. Moreover, such establishments are incompatible with uses characterized by family and youth-related activities. The purpose of this chapter is, therefore, to prevent such deleterious effects and thus, protect the public health, safety and general welfare by regulating the location and certain other aspects of Adult Business Establishments.

Section 5.9.2 Definition

"**Adult Business Establishment**" means and includes any retail business, including but not limited to, any book store, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade or theater which:

- (a) Customarily exhibits motion pictures or displays any other visual representation described or advertised as being "X-Rated" or "For Adults Only" or which customarily excludes persons from any portion of the premises by reason of immaturity of age by use of such or similar phrases; or
- (b) Is adjudged to be a violation of 17 M.R.S.A. ss. 2911, 2912; or
- (c) Keeps for public patronage or permits or allows the operation of any adult amusement device such as sexual aids, toys, and devices; or
- (d) Keeps for public patronage, any sexually explicate material such as books, films, video tapes, audio tapes which display or depicts sex organs during actual or simulated sexual intercourse or sexual acts.

"**Customarily**" means more often than an average of one (1) calendar week during any thirty (30) day period.

"**Residential Zone**" is the following Zoning Districts, High Density Residential and Moderate Density Residential as defined in Title 31, Chapter 7 ss. 3202 of M.R.S.A.

"**Church**" is a place or structure whose primary use is for public religious services or assembly

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by a person or organization with Tax Exempt Status.

Section 5.9.3 Prohibition

Adult Business Establishments shall be permitted only in Planned Industrial and Commercial Districts provided that such establishments, but for this chapter, would otherwise be permitted therein, and subject to the following special requirements:

5.9.3.1 Such establishment shall be at least one thousand (1,000) feet from any other Adult Business Establishment, and at least one thousand (1,000) feet from a Residential Zone, at least one thousand (1,000) feet from a church, all schools, child care facilities and playground or recreation areas, as measured in a straight line, without regard to intervening structures or objects.

5.9.3.2 No sexually explicit materials, entertainment or activity shall be visible from the exterior of the premises.

5.9.3.3 No person, firm or corporation shall operate an adult business establishment without first obtaining a license. Applications for license will be made to the municipal officers on the forms provided by them and shall include a fee in the amount as set forth in the schedule of fees adopted by the City Council. ~~Applications must be accompanied by a fee of \$250.00.~~ Licenses shall be renewed annually and at least 30 days prior to the anniversary date of the license. The city council may, after hearing preceded by notice to interested parties, suspend or revoke any adult business establishment license which has been issued under this ordinance on the ground that the entertainment so permitted constitutes a detriment to the public health, safety, or welfare or violates any municipal ordinances or regulations. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within thirty (30) days of the denial, suspension or revocation, appeal the decision to the Superior Court.

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Section 5.9.4 Penalty

Any person violating any provision of this chapter shall be punished by a fine not exceeding **five hundred dollars (\$500.00)** for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

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CHAPTER 5.10

MarijuanaCannabis Establishment Licensing Ordinance³

SECTION

- 5.10.1 Authority
- 5.10.2 License Required
- 5.10.3 Term of License
- 5.10.4 Licensing Procedures
- 5.10.5 First-Time License Application
- 5.10.6 Renewal License Applications
- 5.10.7 Renewal License Application Involving an Expansion or Relocation of the Facility
- 5.10.8 Fees
- 5.10.9 Definitions
- 5.10.10 Amendments
- 5.10.11 Severability and Validity

Section 5.10.1 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 marijuanacannabis establishments and Title 22 M.R.S. Chapter 558-C Section 2429-D which authorizes municipal regulation of medical cannabismarijuana establishments.

Section 5.10.2 License Required

No marijuana cannabis-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 5.10.3 Term of License

A license for a cannabis 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 5.10.4 Licensing Procedures

³Adopted 03.25.2020, Amended 9/2/2020

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

5.10.4.1 Application Submission

An application for a cannabismarijuana 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 5.10.5, 5.10.6 or 5.10.7 depending on the type of application.

5.10.4.2 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 5.10.5, 5.10.6 or 5.10.7. 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.

5.10.4.3 Public Hearing

The City Council shall hold a public hearing on a completed application for a cannabismarijuana 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 cannabismarijuana establishment for which the license is sought and the location of the establishment identified by both street address and Tax Map and Lot number.

5.10.4.4 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 5.10.5, 5.10.6 or 5.10.7 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

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Council allows overlapping licenses, no retail sales shall occur at the new location until retail sales at the prior location have ceased.

Section 5.10.5 First-Time License Application

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

5.10.5.1 Submission Requirements

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

5.10.5.1.1 A completed and signed application form (provided by the City)

5.10.5.1.2 The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 5.10.8.

5.10.5.1.3 If the application is for an adult use **cannabismarijuana** establishment, written evidence that the applicant has received a state conditional license for the type of facility proposed.

5.10.5.1.4 If the application is for a medical **cannabismarijuana** establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.5.1.5 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.

5.10.5.1.6 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.

5.10.5.1.7 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.

5.10.5.1.8 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.

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5.10.5.1.9 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.

5.10.5.2 Approval Standards

The City Council shall approve an application for a new cannabismarijuana 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:

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

5.10.5.2.2 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.

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

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

5.10.5.2.5 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.

5.10.5.2.6 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 5.10.6 Renewal License Applications

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

5.10.6.1 Submission Requirements

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An application for the renewal of a **cannabismarijuana** 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:

5.10.6.1.1 A completed and signed application form (provided by the City)

5.10.6.1.2 The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth **in Section 5.10.8.**

5.10.6.1.3 If the application is for an adult use **cannabismarijuana** establishment, written documentation that the applicant has applied for a renewal of its state license.

5.10.6.1.4 If the application is for a medical **cannabismarijuana** establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.6.1.5 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.

5.10.6.1.6 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.

5.10.6.1.7 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.

5.10.6.1.8 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.

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5.10.6.2 Approval Standards

The City Council shall approve an application for the renewal of a cannabismarijuana 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:

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

5.10.6.2.2 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.

5.10.6.2.3 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.

5.10.6.2.4 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.

5.10.6.2.5 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 5.10.7 Renewal License Application Involving an Expansion or Relocation of the Facility

An application for the renewal of a cannabismarijuana 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:

5.10.7.1 Submission Requirements

An application for the renewal of cannabismarijuana 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:

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- 5.10.7.1.1** A completed and signed application form (provided by the City)
- 5.10.7.1.2** The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 5.10.8.
- 5.10.7.1.3** If the application is for an adult use cannabismarijuana establishment, written documentation that the applicant has applied for renewal of its state license.
- 5.10.7.1.4** If the application is for a medical cannabismarijuana establishment, written evidence that applicant has applied for or obtained all state approvals for the type of facility proposed.
- 5.10.7.1.5** 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.
- 5.10.7.1.6** 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.
- 5.10.7.1.7** 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.
- 5.10.7.1.8** A written report prepared by the Fire Chief documenting the existing 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. The report of the Fire Chief shall identify any areas of noncompliance or concern about the use of the fire service. The report shall also document the compliance of the proposal for a relocated or expanded facility with all applicable fire and life safety codes. If the report of the Fire Chief identifies any areas of noncompliance with the new or expanded establishment, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.
- 5.10.7.1.9** A written report prepared by the Police Chief documenting the ongoing adequacy of provisions at the existing facility 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. The report shall also review the proposal for a relocated or expanded facility. If the report of the Police Chief identifies any areas of

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

5.10.7.1.10 If the existing 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. The report shall evaluate 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 from the relocated or expanded facility. 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.

5.10.7.2 Approval Standards

The City Council shall approve an application for the renewal of a ~~cannabis 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:

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

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

5.10.7.2.3 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 relocated or expanded establishment is or will be in conformance with all applicable code requirements.

5.10.7.2.4 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 relocated or expanded establishment is or will be in conformance with all applicable code requirements.

5.10.7.2.5 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 such problems at the relocated or expanded establishment.

5.10.7.2.6 If the existing establishment discharges to the public sewer system, the applicant has addressed any discharges of effluent or process water to the public sewer

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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 such problems at the relocated or expanded location.

Section 5.10.8 Fees

An application for a license or renewal of a license for a ~~cannabismarijuana~~ establishment shall include an application fee in the amount ~~as~~ set forth in the schedule of fees adopted by the City Council.

This fee 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 5.10.9 Definitions

~~Marijuana-Cannabis~~ Establishment: Any use or facility that is a Medical ~~CannabisMarijuana~~ Cultivation Facility – Tier 1 or Tier 2, a ~~Cannabis Marijuana~~ Cultivation Facility – Tier 3, a ~~Cannabis Marijuana~~ Cultivation Facility – Tier 4, a ~~Cannabis Marijuana~~ Products Manufacturing Facility, a ~~Cannabis Marijuana~~ Testing Facility, a ~~Cannabis Marijuana~~ Retail Store, a Medical ~~Cannabis Marijuana~~ Registered Caregiver Retail Store, a Medical ~~Cannabis Marijuana~~ Registered Dispensary, or a ~~Cannabis Marijuana~~ Nursery Cultivation Facility as defined by this ordinance.

Medical ~~Cannabis Marijuana~~ Cultivation Facility – Tier 1: An establishment registered with the State of Maine for the cultivation of medical ~~marijuana-cannabis~~ 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-cannabis~~ plants, not more than sixty (60) immature ~~cannabismarijuana~~ plants and any number of ~~marijuana-cannabis~~ seedlings.

Medical ~~CannabisMarijuana~~ Cultivation Facility – Tier 2: An establishment registered with the State of Maine for the cultivation of medical ~~marijuana-cannabis~~ in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of mature ~~cannabismarijuana~~ plants with a plant canopy of not more than two thousand (2,000) square feet.

~~CannabisMarijuana~~ Cultivation Facility – Tier 3: An establishment licensed by the State of Maine for the cultivation of medical ~~marijuana-cannabis~~ 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 ~~cannabismarijuana~~ in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature ~~marijuana-cannabis~~ plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

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CannabisMarijuana Cultivation Facility – Tier 4: An establishment licensed by the State of Maine for the cultivation of medical marijuana-cannabis 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 cannabismarijuana in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature cannabismarijuana plants with a plant canopy of more than seven thousand (7,000) square feet.

CannabisMarijuana Products Manufacturing Facility: An establishment licensed by the State of Maine as a Tier 1 or Tier 2 medical cannabismarijuana 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 cannabismarijuana products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CannabisMarijuana Testing Facility: An establishment licensed by the State of Maine as a medical cannabismarijuana 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 cannabismarijuana testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CannabisMarijuana Retail Store: An establishment licensed by the State of Maine as an adult use cannabismarijuana store in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Medical CannabisMarijuana Registered Caregiver Retail Store: An establishment licensed by the State of Maine as an Medical CannabisMarijuana Registered Caregiver Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

Medical CannabisMarijuana Registered Dispensary: An establishment licensed by the State of Maine as an Registered Medical CannabisMarijuana Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

CannabisMarijuana 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.

CannabisMarijuana Plant – Immature: A cannabismarijuana plant that is not a mature cannabismarijuana plant or a cannabismarijuana seedling.

CannabisMarijuana Plant – Mature: A cannabismarijuana plant that is flowering.

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

Section 5.10.10 Amendments

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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 5.10.11 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 cannabismarijuana 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 cannabismarijuana establishments and Title 22 M.R.S Chapter 558-C Section 2429-D which authorizes municipal regulation of medical cannabismarijuana establishments. In such case no new or expanded cannabismarijuana establishments shall be permitted in the City of Gardiner but cannabismarijuana 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.

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CHAPTER 5.11

Mobile Food Vending Units

SECTION

- 5.11.1 Authority and Purpose
- 5.11.2 Definitions
- 5.11.3 License and Inspections
- 5.11.4 General Requirements
- 5.11.5 Additional Requirements for Units Located on Public Streets
- 5.11.6 Additional Requirements for Units Located on Public Property
- 5.11.7 Additional Requirements for Units Located on Private Property
- 5.11.8 Enforcement; Violations
- 5.11.9 Severability

Section 5.11.1 Authority and Purpose

This ordinance entitled “Mobile Food Vending Units” is enacted pursuant to the City’s home rule authority, as provided in 30-A M.R.S. § 3001, the Maine Constitution, Article VIII, Part Second, and 7 M.R.S. § 284, all as may be amended from time to time.

These provisions relating to mobile food vending units or food trucks are intended to provide opportunities for the operation of mobile food vending units in the city while assuring that these units locate and operate in a manner that protects the public safety and does not create unreasonable burdens on the community.

Section 5.11.2 Definitions

As used in this chapter, the following words have the meanings stated below:

Mobile Food Vending Unit (Food Truck): A motor vehicle or trailer that is licensed to operate on public roads and that is designed and used to sell or otherwise dispense prepared food or beverages directly to consumers.

Section 5.11.3 License and Inspections

The owner or operator of a mobile food vending unit shall obtain a license from the Code Enforcement Officer prior to locating and/or operating the unit within the City of Gardiner. The Code Enforcement Officer shall issue a license only if she/he finds that the location and operation of the unit will be in conformance with the requirements of this Chapter and the Land Use Code if applicable and that the owner/operator has obtained all required state approvals or permits and a victualler’s license from the City of Gardiner. The application shall include a fee in the amount as set forth in the schedule of fees adopted by the City Council.
~~The owner or operator of a unit may apply for a license for one of the following time periods upon payment of the appropriate fee:~~

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~~5.11.3.1A three day license (see Section 5.11.6.1) —\$20 fee~~

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~~5.11.3.2 An annual calendar year license—\$100 fee~~

The Code Enforcement Officer in conjunction with the Police Department shall periodically inspect the location and operation of a licensed unit to assure that the requirements of this Chapter are being met.

Section 5.11.4 General Requirements

A mobile food vending unit that locates and/or operates in the City of Gardiner shall conform to the following requirements:

5.11.4.1 The owner/operator of the unit shall provide the Code Enforcement Officer with evidence of liability insurance coverage in an amount of at least \$1,000,000

5.11.4.2 If the unit will be located or operated on a public street or other public property the owner/operator shall provide the Code Enforcement Officer with evidence that the City is named as an additional insured on the liability insurance policy.

5.11.4.3 The owner/operator shall provide covered receptacles for the collection of trash and other wastes.

5.11.4.4 The owner/operator shall remove and dispose of all trash, garbage and other wastes on a daily basis. No trash, garbage or other wastes shall be stored outside of the unit.

5.11.4.5 The owner/operator shall not broadcast amplified music or commercial messages from the unit while the unit is parked for an extended period on a public street or other public property or located on private property.

Section 5.11.5 Additional Requirements for Units Located or Operated on Public Streets.

A mobile food vending unit that is located and/or operated on a public street shall conform to the following additional requirements:

5.11.5.1 The unit that operates from a location for an extended period shall be located in a legal parking space or spaces on one of the following streets:

- (a) Water Street between Church Street and Chestnut Street
- (b) Arcade Street
- (c) Mechanic Street
- (d) Maine Avenue
- (e) Summer Street
- (f) The south side of Dresden Ave between Church Street and School Street
- (g) Enterprise Avenue
- (h) Prescott Street
- (i) Technology Drive
- (j) River Avenue

The City Council may permit a mobile unit to be located on other public streets in conjunction with public or community event or activity.

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5.11.5.2 The location of the unit shall comply with all applicable parking requirements unless otherwise approved by the Chief of Police.

5.11.5.3 The placement or stopping of a unit shall not obstruct normal traffic flow on the street nor require vehicles to deviate from normal traffic lanes.

5.11.5.4 A unit shall be parked or stopped so that customers can be served while standing on a sidewalk or otherwise outside of the travelway of the street.

5.11.5.5 A unit shall not be in place or operated between the hours of 11:00 PM and 6:00 AM and shall be removed from public streets in the City of Gardiner every night.

5.11.5.6 A unit or customers patronizing a unit shall not obstruct pedestrian movement on any sidewalk or pedestrian path.

5.11.5.7 The site shall be broom-cleaned when the unit is removed. All trash or debris shall be picked up and removed.

Section 5.11.6 Additional Requirements for Units Located on Public Property

A mobile food vending unit that is located and/or operated on public property other than a public street shall conform to the following additional requirements:

5.11.6.1 A mobile vending unit that is located or operated in conjunction with a festival or other community event that has received a permit from the City Council shall conform to the requirements of the organizers of the event including the payment of any fees. Units placed on City property in conjunction with a City approved festival or event may be installed up to three (3) days prior to the start of the event and shall be removed within two (2) days after the conclusion of the event under a three-day license if allowed by the organizers of the festival or event. Units shall be operated only during the duration of the festival or event and shall be parked in locations designated by the organizer.

5.11.6.2 A mobile vending unit that is not part of a City approved festival or other community event that is located on public property shall conform to the following requirements:

5.11.6.2.1 A unit at Waterfront Park shall be located in the row of passenger vehicle parking spaces furthest from the river unless an alternative location is approved by the Code Enforcement Officer.

5.11.6.2.2 A unit shall be placed on public property other than a street or Waterfront Park only with prior approval of the City Manager or City Council and shall be placed in the location designated by the City Manager.

5.11.6.2.3 A unit shall be parked so that customers can be served while standing outside of the travelway of the street, access road or parking lot aisle.

5.11.6.2.4 A unit shall not be in place between the hours of 11:00 PM and 6:00 AM and shall be removed from public property every night.

5.11.6.2.5 A unit or customers patronizing a unit shall not obstruct pedestrian movement on any sidewalk or pedestrian path.

5.11.6.2.6 The site shall be cleaned daily and when the unit is removed. All trash or debris shall be picked up and removed.

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Section 5.11.7 Additional Requirements for Units Located on Private Property

A mobile food vending unit that is located and/or operated on private property shall conform to the following additional requirements:

5.11.7.1 The property on which a unit will be placed is located in a zoning district that allows mobile food vending units. The City Council may permit a mobile unit to be located on private property in other zones in conjunction with public or community event or activity.

5.11.7.2 The owner or operator of the unit must have the written permission of the property owner.

5.11.7.3 A unit may be located in an off-street parking space(s) on the lot.

5.11.7.4 If a unit is not located in an off-street parking space or other part of a parking lot, the placement of the unit shall conform to the setback requirements of the district in which it is located.

5.11.7.5 A unit shall not be located on a lot for more than one hundred eighty (180) days in any calendar year.

5.11.7.6 The unit shall not be open for business between 11:00 PM and 6:00 AM.

Section 5.11.8 Enforcement; Violations

This ordinance shall be enforced by the Code Enforcement Officer. Violation of this ordinance shall be a civil violation subject to a fine of not less than \$100 dollars nor more than \$250 dollars for each offense. Each act of violation and every day that any such violation shall occur shall constitute a separate offense. In addition to the fines provided herein, the City may seek any other relief or remedy available, including but not limited to injunctive relief or abatement regarding any violation of this ordinance. The owner or operator of a mobile food vending unit that has been found to be in violation of the ordinance more than twice may be denied future licenses to locate or operate a mobile food vending unit in the City of Gardiner.

Section 5.11.9 Severability

Should any section or provision of this chapter be declared to be invalid by a court of competent jurisdiction, such decision shall not invalidate any other section or provision of this chapter.