

To: Gardiner Planning Board
From: Joel Greenwood – Contract Planner
Subject: Land Use Ordinance Amendments – Marijuana / Cannabis Establishments

Date: October 18, 2023

The Ordinance Review Committee recommends the following changes to the City Land Use Ordinance:

1. Amend revised Section 10.29 to read:

10.29 ~~Marijuana Cannabis~~ Establishments (Amended February 16, 2022- Effective March 14, 2022)

10.29.1 Any property line of the lot upon which a ~~Marijuana Cannabis~~ establishment is located shall be a minimum of one thousand (1,000) feet from any property line of a lot upon which a public or private school, daycare center/nursery school, athletic field or playground is located. A “school” includes public school, private school, or public preschool program as defined in 20-A M.R.S §1, or any other educational facility including commercial schools that serve children that are less than eighteen (18) years old.

10.29.2 A ~~Marijuana Cannabis~~ Retail Store, a Medical ~~Marijuana Cannabis~~ Registered Caregiver Retail Store, a Medical ~~Marijuana Cannabis~~ Registered Dispensary, or a ~~Marijuana Cannabis~~ 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 Cannabis~~ Establishment License.

10.29.3 ~~Any property line of the lot upon which a ~~Marijuana Cannabis~~ Retail Store, a Medical ~~Marijuana Cannabis~~ Registered Caregiver Retail Store, a Medical ~~Marijuana Cannabis~~ Registered Dispensary, or a ~~Marijuana Cannabis~~ Nursery Cultivation Facility is located shall be a minimum of five hundred (500) feet from any property line of a lot upon which any other existing ~~Marijuana Cannabis~~ Retail Store, a Medical ~~Marijuana Cannabis~~ Registered Caregiver Retail Store, a Medical ~~Marijuana Cannabis~~ Registered Dispensary, or a ~~Marijuana Cannabis~~ Nursery Cultivation Facility is located. A legally existing medical ~~Marijuana Cannabis~~ establishment at the time of adoption of this provision or an establishment that has received a City ~~Marijuana Cannabis~~ Establishment License shall be considered an existing facility for the purpose of this limit.~~

10.29.4 A ~~Marijuana Cannabis~~ Products Manufacturing Facility or a ~~Marijuana Cannabis~~ 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 Cannabis~~ Caregiver.

10.29.5 ~~An applicant that has received a conditional license from the State of Maine for a ~~Marijuana Cannabis~~ 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 of the date of the City's approval. If the applicant fails to obtain an active license within that period, all City approvals, licenses and permits are void.

10.29.6 A ~~Marijuana-Cannabis~~ Products Manufacturing Facility in the Intown Commercial District is only allowed if conducted within a commercial kitchen setting of less than four thousand (4,000) square feet and not using any "inherently hazardous substances" as defined by Title 285B Section 102(20) M.R.S. Chapter 558-C.

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

10.29.8 All cultivation of ~~Marijuana-Cannabis~~ including but not limited to cultivation by a Licensed ~~Marijuana-Cannabis~~ Cultivation Facility, a Registered Medical ~~Marijuana-Cannabis~~ Caregiver, or an individual growing for personal use shall be conducted in accordance with the following requirements:

10.29.8.1 All cultivation and processing of ~~Marijuana-Cannabis~~ shall occur within a fully enclosed structure ~~with solid walls and a solid roof capable of containing odors.~~

10.29.8.2 The structure within which the cultivation and/or processing occur shall be designed and operated to control odors in accordance with **10.29.7**.

10.29.8.3 Any structure used for the cultivation and/or processing of ~~Marijuana-Cannabis~~ shall comply with the setbacks for the district within which it is located.

10.29.8.4 No freestanding accessory structure used for the cultivation and/or processing of ~~Marijuana-Cannabis~~ shall be located where it can be seen from a public street unless the structure is more than one hundred (100) feet from any street right-of-way.