



GARDINER CITY COUNCIL AGENDA ITEM INFORMATION SHEET



Meeting Date		Department	
Agenda Item			
Est. Cost			

Background Information

Requested Action	
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 _____

§ 10.29. Cannabis Establishments.

- 10.29.1. Any property line of the lot upon which a 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 Cannabis Retail Store, ~~a Medical Cannabis Registered Caregiver Retail Store~~, a ~~Medical Cannabis Registered Dispensary~~, or a 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 Cannabis Establishment License.
- 10.29.3. Any property line of the lot upon which a Cannabis Retail Store, ~~a Medical Cannabis Registered Caregiver Retail Store~~, a ~~Medical Cannabis Registered Dispensary~~, or a 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 Cannabis Retail Store, ~~a Medical Cannabis Registered Caregiver Retail Store~~, a ~~Medical Cannabis Registered Dispensary~~, or a Cannabis Nursery Cultivation Facility is located. A legally existing Cannabis Establishment at the time of adoption of this provision or an establishment that has received a City Cannabis Establishment License shall be considered an existing facility for the purpose of this limit.
- ~~10.29.4.~~ A Cannabis Products Manufacturing Facility or a 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 Cannabis~~ Caregiver.
- 10.29.5. An applicant that has received a conditional license from the State of Maine for a 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 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 Cannabis Establishments shall be designed and operated in a manner that prevents 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 cannabis including but not limited to cultivation by a Licensed Cannabis Cultivation Facility, ~~a Registered Medical 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 cannabis shall occur within a fully enclosed structure 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 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 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.

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- 10.29.2. A Cannabis Retail Store, a Cannabis Registered Dispensary, or a 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 Cannabis Establishment License.
- 10.29.3. Any property line of the lot upon which a Cannabis Retail Store, a Cannabis Registered Dispensary, or a 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 Cannabis Retail Store, a Cannabis Registered Dispensary, or a Cannabis Nursery Cultivation Facility is located. A legally existing Cannabis Establishment at the time of adoption of this provision or an establishment that has received a City Cannabis Establishment License shall be considered an existing facility for the purpose of this limit.
- ~~10.29.4.~~ A Cannabis Products Manufacturing Facility or a 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 Cannabis Caregiver.
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- 10.29.8.3. Any structure used for the cultivation and/or processing of 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 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.

§ 7.6. Land Use Table.

The following table establishes the uses that are allowed in each zoning district.

Key for the Categories of Uses

For each use, its status in a particular zone is indicated by one of the following designations:

- N means the use is not allowed in that zone
- Y means that the use is allowed and does not need a permit
- C means that the use is allowed and that it needs review and approval by the Code Enforcement Officer in accordance with Section 6
- P means that the use is allowed and that it needs review and approval. Based on the criteria set out in Section 6 and the specifics of a project, the review could be Site Plan Review, Planning Board Review, or Code Enforcement Officer Review
- SD means that the use requires review and approval by the Planning Board under the standards for subdivisions

7.6.1. 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	Cobbossee Corridor	ECR	Education/Community Recreation
MUV	Mixed Use Village	PHD	Planned Highway Development
IT	Intown Commercial	CPD	Cobbossee 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
Cannabis Nursery Cultivation Facility ¹³	N	N	N	P	N	N	N	N	N	N	N	N	P	P	P	N
Cannabis Retail Sales Establishment ^{13, 16}	N	N	N	N	N	N	N	P	N	N	N	N	N	N	P	N

Catering	N	N	N	P	P ⁹	N	P	P	N	P	N	P	P	P	P	P
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See Notes at end of Section 7.6 charts.

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Industrial, Wholesale & Transportation Uses	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Battery Storage Facilities	N	N	N	P	N	N	N	N	P	N	N	N	N	N	N	N
Medical Cannabis Cultivation Facility–Tier 1 ^{13, 15, 16}	N	N	N	P	N	N	N	N	P	P	N	N	N	P	N	N
Medical Cannabis Cultivation Facility–Tier 2 ^{13, 15, 16}	N	N	N	P	N	N	N	N	P	P	N	N	N	P	N	N
Cannabis Cultivation Facility–Tier 3 ^{13, 15, 16}	N	N	N	P	N	N	N	N	P	N	N	N	N	N	N	N
Cannabis Cultivation Facility–Tier 4 ^{13, 15, 16}	N	N	N	P	N	N	N	N	P	N	N	N	N	N	N	N

Cannabis Products Manufacturing Facility ^{13,15}	N	N	N	N	N	N	N	N	P	N	N	N	N	N	P ¹⁴	N
Cannabis Testing Facility ^{13, 15}	N	N	N	N	N	N	N	N	P	P	N	N	P	P	N	N
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

See Notes at end of Section 7.6 charts.

NOTES:

1. Only for residential uses in existence as of April 1, 2016.
2. Only as part of a mixed-use development.
3. Only on a lot of record as of April 1, 2016.
4. Only in single and two-family dwellings existing as of April 1, 2016.
5. Only as a replacement of a modular/mobile home less than twenty (20) feet wide existing as of April 1, 2016.
6. Limited to a maximum of ten thousand (10,000) square feet of floor area per use.
7. All operations and storage of equipment and material must occur within a building or a fully enclosed storage area.
8. Only in a building in existence on April 1, 2016.
9. Only on lots that have frontage on Brunswick Avenue.
10. Only in a mixed-use building that is part of a residential subdivision developed using the alternative development standards of Section 7.8.12.
11. Only on lots that have frontage on Brunswick Avenue, Church Street, Highland Avenue, or Water Street.
12. The regulation of Timber Harvesting where permitted is administered by the State Forestry Bureau
13. An applicant that has received a conditional license from the State of Maine for a cannabis 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 of the date of the City's approval. If the applicant fails to obtain an active license within that period, all City approvals and permits are void.
14. A 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.
15. Cannabis establishments may be prohibited in some areas where they are otherwise allowed due to restrictions relating to the prior use of federal funding by the City. Consult with the Code Enforcement Officer to determine if this use is allowed at a particular location.
16. The manufacturing of cannabis products that does not involve the use of inherently hazardous Substances is allowed as an accessory use for a licensed cannabis cultivation facility.
17. The Density Bonus is allowed in the annotated districts only if the project is connected to the municipal water supply (Gardiner Water District) and Gardiner's municipal sewer system (pumping and treatment, a special district, or equivalent centralized septic system

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Catering	N	N	N	P	P ⁹	N	P	P	N	P	N	P	P	P	P	P
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Commercial Firewood	N	N	N	P	N	N	N	N	N	N	N	N	N	N	N	N
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15. Cannabis establishments may be prohibited in some areas where they are otherwise allowed due to restrictions relating to the prior use of federal funding by the City. Consult with the Code Enforcement Officer to determine if this use is allowed at a particular location.
16. The manufacturing of cannabis products that does not involve the use of inherently hazardous Substances is allowed as an accessory use for a licensed cannabis cultivation facility.
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CHAPTER 5.10
Cannabis Establishment Licensing Ordinance [Adopted 3-25-2020; amended 9-2-2020]

§ 5.10.1. Authority.

This ordinance is enacted pursuant to authority granted under 30-A M.R.S.A § 3001, 22 M.R.S.A § 2429-D and 28 M.R.S Chapter 1 Subchapter 4. The purpose of this section is to set forth procedures and standards for the issuance of local licenses for Cannabis Businesses in order to protect public health, safety and welfare.

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

§ 5.10.2. License Required.

No 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.

§ 5.10.3. Term of License.

A license for a cannabis 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.

§ 5.10.4. Licensing Procedures.

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

5.10.4.1. Application Submission. An application for a cannabis 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 cannabis 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 cannabis 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 Council allows overlapping licenses, no retail sales shall occur at the new location until retail sales at the prior location have ceased.

§ 5.10.5. First-Time License Application.

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

5.10.5.1. Submission Requirements. An application for a cannabis 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 a ~~n-adult use~~ cannabis 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 cannabis establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed.~~

- 5.10.5.1.4. 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.
- 5.10.5.1.5. A written report prepared by the Code Enforcement Officer documenting the proposal's 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.
- 5.10.5.1.6. A written report prepared by the Fire Chief documenting the proposal's 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.
- 5.10.5.1.7. 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.
- 5.10.5.1.8. 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 cannabis 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 cannabis establishment or approval for the proposed medical~~ cannabis establishment from the State of Maine.
- 5.10.5.2.2. All cannabis establishments are required to be reviewed by the Planning Board to meet all associated Land Use standards in force at the time of the new application. When no licensed cannabis retail facility has been operating out of the same location during the last 90 days, except for instances of Force Majeure, a new application is required.
- 5.10.5.2.3. 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.

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

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

5.10.5.2.6. 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 to receiving City authorization to open.

5.10.5.2.7. 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.

§ 5.10.6. Renewal License Applications.

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

5.10.6.1. Submission Requirements. An application for the renewal of a cannabis 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 cannabis establishment, written documentation that the applicant has applied for a renewal of its state license.~~

~~5.10.6.1.3~~ If the application is for a medical All cannabis establishment applications shall provide written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.6.1.4. 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.

5.10.6.1.5. 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.

5.10.6.1.6. 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.

5.10.6.1.7 . 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.

5.10.6.2 Approval Standards. The City Council shall approve an application for the renewal of a cannabis 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-Cannabis Establishment authorization cannabis-establishment license or approval as a medical cannabis establishment.~~

5.10.6.2.2. If no licensed cannabis retail facility has been operating out of the same location during the last 90 days, except for instances of Force Majeure, then it will be considered a new application and be required to apply to the Planning Board for review and be found to meet all associated land use standards in force at the time of the new application.

5.10.6.2.3. 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 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 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.

5.10.6.2.5. 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 problems.

5.10.6.2.6. 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 have 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.

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

An application for the renewal of a cannabis 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 cannabis 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:

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 cannabis establishment, written documentation that the applicant has applied for renewal of its state license. If the application is for a medical~~ All cannabis establishment applications shall provide written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.7.1.4. ~~If the application is for a medical cannabis establishment, written evidence that applicant has applied for or obtained all state approvals for the type of facility proposed.~~

5.10.7.1.4. 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.

5.10.7.1.5. 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.

5.10.7.1.6. 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.

5.10.7.1.7. 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.

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

5.10.7.1.9. 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 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:

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

5.10.7.2.5. 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.

5.10.7.2.6. 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.

5.10.7.2.7. 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.

5.10.7.2.8. 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.

5.10.7.2.9. 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 system that have 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.

§ 5.10.8. Fees.

An application for a license or renewal of a license for a cannabis establishment shall include an application fee in the amount 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.

§ 5.10.9. Definitions.

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

CANNABIS CULTIVATION FACILITY – TIER 4 — An establishment licensed by the State of Maine for the cultivation of ~~medical~~ 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~~ cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature cannabis plants with a plant canopy of more than seven thousand (7,000) square feet.

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

CANNABIS 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.

CANNABIS PLANT – IMMATURE — A cannabis plant that is not a mature cannabis plant or a cannabis seedling.

CANNABIS PLANT – MATURE — A cannabis plant that is flowering.

CANNABIS PRODUCTS MANUFACTURING FACILITY — An establishment licensed by the State of Maine as a Tier 1 or Tier 2 ~~medical~~ cannabis 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 ~~a an adult use~~ cannabis products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS RETAIL STORE — An establishment licensed by the State of Maine as ~~a an adult use~~ cannabis store in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS SEEDLING — A cannabis plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width.

CANNABIS TESTING FACILITY — An establishment licensed by the State of Maine as a ~~medical~~ cannabis 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 ~~a an adult use~~ cannabis testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

FORCE MAJEURE — Any cause beyond the control of the applicant including but not restricted to acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of due diligence such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force Majeure does not include (i) a failure of performance that is due to the applicant's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an applicant fails to remove or remedy within a reasonable time; or (iii) economic hardship of an applicant.

~~MEDICAL~~ CANNABIS CULTIVATION FACILITY – TIER 1 — An establishment registered with the State of Maine for the cultivation of ~~medical~~ 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 cannabis plants, not more than sixty (60) immature cannabis plants and any number of cannabis seedlings.

~~MEDICAL~~ CANNABIS CULTIVATION FACILITY – TIER 2 — An establishment registered with the State of Maine for the cultivation of ~~medical~~ cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of mature cannabis plants with a plant canopy of not more than two thousand (2,000) square feet.

~~MEDICAL~~ CANNABIS REGISTERED ~~CAREGIVER~~ RETAIL STORE — An establishment licensed by the State of Maine as a ~~Medical~~-Cannabis Registered ~~Caregiver~~ Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

~~MEDICAL~~ CANNABIS REGISTERED DISPENSARY — An establishment licensed by the State of Maine as a Registered ~~Medical~~ Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

§ 5.10.10. 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.

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

CHAPTER 5.10

Cannabis Establishment Licensing Ordinance [Adopted 3-25-2020; amended 9-2-2020]

§ 5.10.1. Authority.

This ordinance is enacted pursuant to authority granted under 30-A M.R.S.A § 3001, 22 M.R.S.A§ 2429-D and 28 M.R.S Chapter 1 Subchapter 4. The purpose of this section is to set forth procedures and standards for the issuance of local licenses for Cannabis Businesses in order to protect public health, safety and welfare.

§ 5.10.2. License Required.

No 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.

§ 5.10.3. Term of License.

A license for a cannabis 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.

§ 5.10.4. Licensing Procedures.

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

5.10.4.1. Application Submission. An application for a cannabis 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 cannabis 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 cannabis 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 Council allows overlapping licenses, no retail sales shall occur at the new location until retail sales at the prior location have ceased.

§ 5.10.5. First-Time License Application.

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

5.10.5.1. Submission Requirements. An application for a cannabis 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 a cannabis establishment, written evidence that the applicant has received a state conditional license for the type of facility proposed.

5.10.5.1.4. 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.

- 5.10.5.1.5. A written report prepared by the Code Enforcement Officer documenting the proposal's 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.
 - 5.10.5.1.6. A written report prepared by the Fire Chief documenting the proposal's 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.
 - 5.10.5.1.7. 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.
 - 5.10.5.1.8. 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 cannabis 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 cannabis establishment from the State of Maine.
 - 5.10.5.2.2. All cannabis establishments are required to be reviewed by the Planning Board to meet all associated Land Use standards in force at the time of the new application. When no licensed cannabis retail facility has been operating out of the same location during the last 90 days, except for instances of Force Majeure, a new application is required.
 - 5.10.5.2.3. 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.
 - 5.10.5.2.4. The proposed establishment conforms or will conform to all applicable land use, building, plumbing and electrical codes prior to receiving City authorization to open.
 - 5.10.5.2.5. The proposed establishment conforms or will conform to all applicable fire and life safety codes prior to receiving City authorization to open.

5.10.5.2.6. 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 to receiving City authorization to open.

5.10.5.2.7. 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.

§ 5.10.6. Renewal License Applications.

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

5.10.6.1. Submission Requirements. An application for the renewal of a cannabis 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 All cannabis establishment applications shall provide written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.6.1.4. 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.

5.10.6.1.5. 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.

5.10.6.1.6. 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.

5.10.6.1.7 . 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.

5.10.6.2 Approval Standards. The City Council shall approve an application for the renewal of a cannabis 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 Cannabis Establishment authorization.

5.10.6.2.2. If no licensed cannabis retail facility has been operating out of the same location during the last 90 days, except for instances of Force Majeure, then it will be considered a new application and be required to apply to the Planning Board for review and be found to meet all associated land use standards in force at the time of the new application.

5.10.6.2.3. 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 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 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.

5.10.6.2.5. 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 problems.

5.10.6.2.6. 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 have 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.

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

An application for the renewal of a cannabis 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 cannabis 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:

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. All cannabis establishment applications shall provide written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.7.1.4. 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.

5.10.7.1.5. 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.

5.10.7.1.6. 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.

5.10.7.1.7. 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.

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

5.10.7.1.9. 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 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:

5.10.7.2.4. The applicant has applied to the State of Maine for the renewal of its approval as a cannabis establishment.

5.10.7.2.5. 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.

5.10.7.2.6. 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.

5.10.7.2.7. 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.

5.10.7.2.8. 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.

5.10.7.2.9. 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 system that have 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.

§ 5.10.8. Fees.

An application for a license or renewal of a license for a cannabis establishment shall include an application fee in the amount 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.

§ 5.10.9. Definitions.

CANNABIS CULTIVATION FACILITY – TIER 3 — An establishment licensed by the State of Maine for the cultivation of 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 cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature cannabis plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

CANNABIS CULTIVATION FACILITY – TIER 4 — An establishment licensed by the State of Maine for the cultivation of 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 cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature cannabis plants with a plant canopy of more than seven thousand (7,000) square feet.

CANNABIS ESTABLISHMENT — Any use or facility that is a Cannabis Cultivation Facility – Tier 1 or Tier 2, a Cannabis Cultivation Facility – Tier 3, a Cannabis Cultivation Facility – Tier 4, a Cannabis Products Manufacturing Facility, a Cannabis Testing Facility, a Cannabis Retail Store, a Cannabis Registered Dispensary, or a Cannabis Nursery Cultivation Facility as defined by this ordinance.

CANNABIS NURSERY CULTIVATION FACILITY — An establishment licensed by the State of Maine as a nursery cultivation facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS PLANT – IMMATURE — A cannabis plant that is not a mature cannabis plant or a cannabis seedling.

CANNABIS PLANT – MATURE — A cannabis plant that is flowering.

CANNABIS PRODUCTS MANUFACTURING FACILITY — An establishment licensed by the State of Maine as a Tier 1 or Tier 2 cannabis 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 a cannabis products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS RETAIL STORE — An establishment licensed by the State of Maine as a cannabis store in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS SEEDLING — A cannabis plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width.

CANNABIS TESTING FACILITY — An establishment licensed by the State of Maine as a cannabis 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 a cannabis testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

FORCE MAJEURE — Any cause beyond the control of the applicant including but not restricted to acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of due diligence such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force Majeure does not include (i) a failure of performance that is due to the applicant's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an applicant fails to remove or remedy within a reasonable time; or (iii) economic hardship of an applicant.

CANNABIS CULTIVATION FACILITY – TIER 1 — An establishment registered with the State of Maine for the cultivation of cannabis 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 cannabis plants, not more than sixty (60) immature cannabis plants and any number of cannabis seedlings.

CANNABIS CULTIVATION FACILITY – TIER 2 — An establishment registered with the State of Maine for the cultivation of cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of mature cannabis plants with a plant canopy of not more than two thousand (2,000) square feet.

CANNABIS REGISTERED RETAIL STORE — An establishment licensed by the State of Maine as a Cannabis Registered Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

CANNABIS REGISTERED DISPENSARY — An establishment licensed by the State of Maine as a Registered Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

§ 5.10.10. 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.

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

§ 17.2. Definitions.

17.2.1. In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words not defined in this Section shall have their customary dictionary meanings.

CANNABIS CULTIVATION FACILITY – TIER 3 — An establishment licensed by the State of Maine for the cultivation of **medical** 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 cannabis in accordance with the rules established under Title 28-B

M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

CANNABIS CULTIVATION FACILITY – TIER 4 — An establishment licensed by the State of Maine for the cultivation of **medical** 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 cannabis in accordance with the rules established under Title 28-B

M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of more than seven thousand (7,000) square feet.

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

CANNABIS 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.

CANNABIS PLANT – IMMATURE — A cannabis plant that is not a mature cannabis plant or a cannabis seedling as defined in Title 28-B M.R.S. Chapter 1.

CANNABIS PLANT – MATURE — A cannabis plant that is flowering as defined in Title 28-B M.R.S. Chapter 1.

CANNABIS PRODUCTS MANUFACTURING FACILITY — An establishment licensed by the State of Maine as a Tier 1 or Tier 2 ~~medical~~ cannabis 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 cannabis products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS RETAIL SALES ESTABLISHMENT — A Cannabis Retail Store, a ~~Medical Cannabis Registered Caregiver Retail Store~~, or a ~~Medical~~ Cannabis Registered Dispensary with Retail Sales.

CANNABIS SEEDLING — A cannabis plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width as defined in Title 28-B M.R.S. Chapter 1.

CANNABIS TESTING FACILITY — An establishment licensed by the State of Maine as a ~~medical~~ cannabis 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 cannabis testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

~~MEDICAL~~ CANNABIS CULTIVATION FACILITY – TIER 1 — ~~Medical~~ Cannabis Cultivation Facility – Tier 1: An establishment registered with the State of Maine for the cultivation of ~~medical~~ cannabis 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 cannabis plants, not more than sixty (60) immature cannabis plants and any number of cannabis seedlings.

~~MEDICAL~~ CANNABIS CULTIVATION FACILITY – TIER 2 — An establishment registered with the State of Maine for the cultivation of ~~medical~~ cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of not more than two thousand (2,000) square feet.

~~MEDICAL CANNABIS REGISTERED CAREGIVER RETAIL STORE~~ — ~~An establishment licensed by the State of Maine as a Medical Cannabis Registered Caregiver Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.~~

~~MEDICAL~~ CANNABIS REGISTERED DISPENSARY — An establishment licensed by the State of Maine as a Registered ~~Medical~~ Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that does not involve the retail sales of cannabis or cannabis products at a fixed location.

~~MEDICAL~~ CANNABIS REGISTERED DISPENSARY WITH RETAIL SALES — An establishment licensed by the State of Maine as a Registered-~~Medical~~ Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the retail sales of cannabis or cannabis products at a fixed location.

§ 17.2. Definitions.

17.2.1. In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words not defined in this Section shall have their customary dictionary meanings.

CANNABIS CULTIVATION FACILITY – TIER 3 — An establishment licensed by the State of Maine for the cultivation of 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 cannabis in accordance with the rules established under Title 28-B

M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

CANNABIS CULTIVATION FACILITY – TIER 4 — An establishment licensed by the State of Maine for the cultivation of 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 cannabis in accordance with the rules established under Title 28-B

M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of more than seven thousand (7,000) square feet.

CANNABIS ESTABLISHMENT — Any use or facility that is a Cannabis Cultivation Facility – Tier 1 or Tier 2, a Cannabis Cultivation Facility – Tier 3, a Cannabis Cultivation Facility – Tier 4, a Cannabis Products Manufacturing Facility, a Cannabis Testing Facility, a Cannabis Retail Store, a Cannabis Registered Dispensary, or a Cannabis Nursery Cultivation Facility as defined by this ordinance.

CANNABIS NURSERY CULTIVATION FACILITY — An establishment licensed by the State of Maine as a nursery cultivation facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS PLANT – IMMATURE — A cannabis plant that is not a mature cannabis plant or a cannabis seedling as defined in Title 28-B M.R.S. Chapter 1.

CANNABIS PLANT – MATURE — A cannabis plant that is flowering as defined in Title 28-B M.R.S. Chapter 1.

CANNABIS PRODUCTS MANUFACTURING FACILITY — An establishment licensed by the State of Maine as a Tier 1 or Tier 2 cannabis 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 cannabis products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS RETAIL SALES ESTABLISHMENT — A Cannabis Retail Store, or a Cannabis Registered Dispensary with Retail Sales.

CANNABIS SEEDLING — A cannabis plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width as defined in Title 28-B M.R.S. Chapter 1.

CANNABIS TESTING FACILITY — An establishment licensed by the State of Maine as a cannabis 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 cannabis testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

CANNABIS CULTIVATION FACILITY – TIER 1 — Cannabis

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

CANNABIS CULTIVATION FACILITY – TIER 2 — An establishment

registered with the State of Maine for the cultivation of cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of not more than two thousand (2,000) square feet.

CANNABIS REGISTERED DISPENSARY — An establishment licensed by the State of Maine as a Registered Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that does not involve the retail sales of cannabis or cannabis products at a fixed location.

CANNABIS REGISTERED DISPENSARY WITH RETAIL SALES — An

establishment licensed by the State of Maine as a Registered Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the retail sales of cannabis or cannabis products at a fixed location.