

**PRESIDENT**  
Scott Joseph Graves, Esq.

**COUNCILLORS AT LARGE**  
James S. Boone  
Craig R. Cormier  
Ronald F. Cormier  
Edward A. Gravel  
Scott Joseph Graves, Esq.  
Christine A. Johnson

**WARD 1 COUNCILLOR**  
James M. Walsh, Esq.

**WARD 2 COUNCILLOR**  
Elizabeth J. Kazinskas

**WARD 3 COUNCILLOR**  
Nathan R. Boudreau

**WARD 4 COUNCILLOR**  
Karen G. Hardern

**WARD 5 COUNCILLOR**  
James D. Johnson

**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
CITY COUNCIL



July 10, 2019

**PUBLIC WELFARE COMMITTEE MEETING**

**Date:** Wednesday, July 24, 2019  
**Time:** 6:00 p.m.  
**Location:** Mayor's Conference, Room 128, City Hall

*ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Chair, pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.*

- I. Review and Approval of the June 19, 2019 Meeting Minutes.
- II. #10090 – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, Entitled “Zoning,” to Change Section 675-1070, Marijuana Establishments (*In City Council and Referred to Public Welfare, 4/16/2019*).
- III. Other Business.
- IV. Adjournment

*NOTICE: The listing of Agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.*

CITY COUNCIL OF GARDNER

*Christine A. Johnson*

Councillor Christine A. Johnson  
Chair, Public Welfare Committee

**City of Gardner, Massachusetts  
City Council Public Welfare Committee  
Minutes of the Meeting of June 19, 2019**

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Councillor Christine Johnson, Chairperson of the Public Welfare Committee, called the meeting to order at 6:00 p.m. in the Mayor's Conference, Room 128. Committee members present were Councillor Elizabeth Kazinskas and Council President Scott Joseph Graves.

Other officials present and/or participating were Claude Leger, Director, Senior Citizens Center; Kathleen Leslie, Director, Levi Heywood Memorial Library; Phil Buso, Director, Veterans' Services; Ken Bonk, Chairman, Airport Commission; Debra Pond, Administrator, Greenwood Memorial Pool and Member of the Disability Commission; Bill Frank, Superintendent, Gardner Municipal Golf Course; and, City Clerk Alan Agnelli.

**I. Minutes of Prior Meetings**

On a motion by President Scott Graves and seconded by Councillor Elizabeth Kazinskas, it was voted to approve the Minutes of the 2019 Minutes, as amended.

**II. FY2020 Budget Hearings**

**Claude Leger, Director, Senior Citizens Center**

- COA Meal Site Manager – MOC approved a 5% wage increase.
- Information Technology – Modest increase due to FY19 shortfall.

**Kathleen Leslie, Director, Levi Heywood Memorial Library**

- Books & Periodicals - Increased as Budget is driven by annual certification for State Aid to Library program – grant award is contingent on the number of hours that the Library is open to the public and the amount that the City spends on library materials.
- Office Supplies and Postage – Increased to \$10,000 to meet needs.

**Ken Bonk, Chairman, Airport Commission**

- All amounts requested by the Airport Commission were granted by the Mayor.
- Airport usually breaks even – department receipts to operating expenses.
- T-Hangar Project being re-bid as initial bids far exceeded the budget.
- Hangar rental collections have been better. 1 chronic later-payer has been maintaining rental payments.

**Phil Buso, Director, Veterans' Services**

- Office Supplies - Increased by \$100 for aging copier supplies and maintenance.
- Veterans' Benefits – On target to expend \$825,000 this fiscal year. Approximately \$830k expended in FY2018.
- Burials now cost \$4,000 each – 3 burials in the past 6 weeks. Feds pay only if Veteran dies in a VA hospital. Increased in October, 2018 from \$2K to \$4k.
- The State reimburses the City 75% of total Veterans' Benefits expended. Reimbursements are paid in the following Fiscal Year.

**Debra Pond, Administrator, Greenwood Memorial Pool**

- Budget request similar to current FY. Salary increase reflects minimum wage increases and COLA.

**City of Gardner, Massachusetts  
City Council Public Welfare Committee  
Minutes of the Meeting of June 19, 2019**

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- Diving board scheduled to be replaced – flange pedestal broken.
- Soliciting quotes to re-side and paint the outdoor building.
- Nothing budgeted for maintaining the shuttered indoor pool building.

**Debra Pond, Disability Commission**

- Professional Development & Travel – Access monitor training.

**Bill Frank, Superintendent, Gardner Municipal Golf Course**

- Golf Course operates under an Enterprise Fund – expenses paid from revenues. Very conservative budget.
- Surplus is used as “a rainy day fund.”
- No capital projects planned for the coming FY.
- Decreasing memberships, particularly those under age 50, due to many other leisure activities. Trying to attract younger golfers through lower rates.

**III. #10090–An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, Entitled “Zoning,” to Change Section 675-1070, Marijuana Establishments (In City Council and Referred to Public Welfare, 4/16/2019).**

President Graves noted that there are so many non-conforming residential lots in the City and expressed concern that by adopting the Ordinance amendment, then many residences could be affected. He added that G.L. Chapter 40A provides protection to non-conforming residential lots.

Councillor Kazinskas suggested that the proposed amendment provides marijuana establishments with site selection, but are still required to seek approval from the Planning Board, so that there is no guarantee.

The Committee questioned locations within the City where such establishment would be allowed.

On a motion President Graves and seconded by Councillor Elizabeth Kazinskas, it was voted to request that the Planning Board provide the Committee with detailed maps of residential and other areas of the City that could be affected in the event that the City Council adopts the Board’s proposed amendments to Section 675-1070 Marijuana Establishments, C (3)(a) and C (9)(c) of the Code of the City of Gardner.

**Adjournment.**

On a motion Councillor Elizabeth Kazinskas and seconded by President Graves, it was voted to adjourn at 6:56 p.m.

# 10090

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

June 21, 2019



Mr. Alan L. Agnelli  
City Clerk  
City Hall, Room 121  
95 Pleasant Street  
Gardner, MA 01440

RECEIVED  
2019 JUN 20 PM 12:59  
CITY CLERK'S OFFICE  
GARDNER, MA

RE: Proposed Amendment to Section 675-1070 Marijuana Establishments, C (3)(a) and C (9)(c) of the Code of the City of Gardner

Dear Mr. Agnelli,


In response to your June 20, 2019 correspondence regarding the above referenced matter, I would like to offer the following responses to the additional requested information:

It is the Planning Board's opinion that the deletion of C (3) (a), will not have any additional effects on residential and other areas within the City. All Marijuana Establishments are allowed in Industrial 1 and 2 zones, and retail and testing Marijuana Establishments are allowed in both Industrial zones along with Commercial 2 zones. The deletion of this clause will not change this, it will, however, allow for the locating of these facilities in there designated zones without having to apply for and receive multiple variances due to the proximity of nonconforming residential dwellings that have not been abandoned or unoccupied for a period of two years. It is the Planning Board's opinion that this is highly restrictive, time consuming, and an unnecessary process for allowed uses within those zones. Examples of areas where these scenarios exist are numerous throughout the City. Since each proposed project is vetted individually with the zoning, the best way to present the information to the Welfare Committee would be in a person-to-person setting while referencing the City Zoning Map.

The deletion of a portion of C (9) (c) clarifies that clause with regard to the conversion of a medical marijuana treatment center to a marijuana establishment under the new zoning, and will not affect any residential and other areas within the City if deleted.

I look forward to meeting with the Welfare Committee to address any questions or concerns you may have.

Sincerely,

  
Trevor M. Beauregard  
Director

City Hall Annex, 115 Pleasant Street, Room 201, Gardner, Massachusetts 01440  
Telephone: (978) 630-4011 ♦ Facsimile: (978) 632-1905 ♦ CDBG (978) 632-3800

10090  
**GARDNER REDEVELOPMENT AUTHORITY**

**115 Pleasant Street, Manca Annex- Room 201**

**Gardner, MA 01440**

**Phone: 978-630-4014**

**Fax: 978-632-1905**

June 19, 2019

President Scott J. Graves, Esq.  
C/o Alan Agnelli, City Clerk  
City Hall  
Gardner, MA 01440

RECEIVED  
2019 JUN 19 AM 9:44  
CITY CLERK'S OFFICE  
GARDNER, MA

Re: **Proposed Amendment to Section 675-1070 Marijuana Establishments, C (3)(a) and C (9) (c) of the City of Gardner ZONING CODE – Final Report**

Dear President Graves:

Based on the information presented at the Joint Public Hearing of the City Council and Planning Board held on Monday, June 3, 2019, and the discussion pursuant thereto, the Planning Board voted unanimously (4-0) at its June 18, 2019 meeting to recommend that the City Council amend the Zoning Code as follows:

Section 675-1070 Marijuana Establishments, C (3) (a). Delete in its entirety. The clause is too restrictive and does not allow for reasonable site selection process for this type of use given the overabundance of nonconforming residential structures within the City.

Section 675-1070 Marijuana Establishments, C (9) (c). Delete “*shall not exceed the number of registered medical marijuana treatment centers in Gardner engaged in the same type of activity and.*” In its current state the clause is ambiguous. The proposed amendment clarifies the clause while maintaining consistency with state regulations by not preventing the conversion of a qualified medical marijuana treatment center to a marijuana establishment. The final clause should read as follows:

*The number of Marijuana Establishments shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017 to a marijuana establishment engaged in the same type of activity.*

The Planning Board determined that the proposed amendment is beneficial to the present and future inhabitants of the City of Gardner, and is in accordance with the provisions of Massachusetts General Laws Chapter 40A. Since there were no objections or proposed changes noted at the public hearing, the Planning Board respectfully requests that the City Council move forward with approving the originally submitted zoning change as noted above. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

  
Robert Bettez, Vice Chairman

10090

# CITY OF GARDNER

RECEIVED



DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING  
April 10, 2019

2019 APR 10 10 51 AM  
CITY CLERK'S OFFICE  
GARDNER, MA

President Scott J. Graves, Esq.  
C/o Alan Agnelli, City Clerk  
City Hall  
Gardner, MA 01440

**Re: Proposed Amendment to Section 675-1070 Marijuana Establishments, C (3) (a);  
and C (9) (c) of the City of Gardner ZONING CODE**

Dear President Graves:

At its meeting on April 9, 2019, The Planning Board voted unanimously (4-0) to recommend that the City Council consider amending the Zoning Code as follows:

Section 675-1070 Marijuana Establishments, C (3) (a). Delete in its entirety. The clause is too restrictive and does not allow for reasonable site selection process for this type of use given the overabundance of nonconforming residential structures within the City.

Section 675-1070 Marijuana Establishments, C (9) (c). Delete "*shall not exceed the number of registered medical marijuana treatment centers in Gardner engaged in the same type of activity and.*" In its current state the clause is ambiguous. The proposed amendment clarifies the clause while maintaining consistency with state regulations by not preventing the conversion of a qualified medical marijuana treatment center to a marijuana establishment. The final clause should read as follows:

*The number of Marijuana Establishments shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017 to a marijuana establishment engaged in the same type of activity.*

The Planning Board determined that the proposed amendment is beneficial to the present and future inhabitants of the City of Gardner, and is in accordance with the provisions of Massachusetts General Laws Chapter 40A.

The Planning Board looks forward to joining the City Council at a public hearing scheduled at your earliest convenience. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Allen Gross, Chairman

# ORDINANCE

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AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED “ZONING,” TO CHANGE VARIOUS PROVISIONS RELATING TO MARIJUANA ESTABLISHMENTS.

Be it ordained by the City Council of the City of Gardner, as follows:

Section 1. Chapter 675-1070 Marijuana Establishments, is hereby amended by deleting and repealing Subsection C (3) (a) in its entirety.

Section 2. Subsection C (9) (c) of Chapter 675-1070 Marijuana Establishments, is hereby amended by deleting the words “shall not exceed the number of registered medical marijuana treatment centers in Gardner engaged in the same type of activity and”.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.



10090

# ORDINANCE

RECEIVED

2019 APR 10 PM 3:41

CITY CLERK'S OFFICE  
GARDNER, MA

## § 675-1070 Marijuana Establishments.

### A. Purpose

- (1) To provide for the placement of marijuana establishment in appropriate places and under conditions in accordance with the provisions of Massachusetts General Law Chapter 94G
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

### B. Applicability

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 675-410 (Schedule of Use Regulations) and this § 675-1070 (Marijuana Establishments)
- (2) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of Class 1 Controlled Substances.
- (3) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

### C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority
- (3) No marijuana establishment property line shall be located within 500 linear feet of a lot line where the following districts, activity, or uses occur:
  - (a) A nonconforming residential dwelling that has not been abandoned or unoccupied for a period of two years;
  - (b) Any church, public or private school or child-care facility; or place where minors frequent (e.g., a library, ball field, park, sports or family recreation facility, religious facility or the like);
  - (c) Any other marijuana establishment;
  - (d) Any drug or alcohol rehabilitation facility; or
  - (e) Any correctional facility, half-way house or similar facility.
- (5) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a marijuana establishment.

Delete



# ORDINANCE

- (6) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (7) Marijuana establishments shall provide the Gardner Police and Fire Departments, Building Commissioner, Board of Health, and the special permit granting authority with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.
- (8) The City shall have access at any time to inspect the premises of the marijuana establishment to ensure compliance with local and state regulations, excluding client health information protected under the Health Insurance Portability and Accountability Act of 1996.
- (9) Pursuant to Massachusetts General Laws Chapter 94G, Section 3(a) (2)(i)-(iii) the maximum number of Licensed Marijuana Establishments in the City shall be consistent with the following provisions:
  - a) Shall not prohibit one or more types of Marijuana Establishment;
  - b) The number of marijuana retail establishments, shall not exceed 20% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner. Said number to be rounded up to the next whole number;
  - c) The number of Marijuana Establishments shall not exceed the number of registered medical marijuana treatment centers in Gardner engaged in the same type of activity and shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017 to a marijuana establishment engaged in the same type of activity.

Delete

## D. Special permit requirements.

### Special Permit Requirements

- (1) No special permit for any marijuana establishment shall be issued without site plan approval first having been obtained from the Planning Board, § 675-1020, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
- (2) A marijuana establishment shall only be allowed by special permit from the Gardner Planning Board in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (3) A special permit for a marijuana establishment shall be limited to one or more of the following uses that shall be specified by the special permit granting authority:
  - (a) Marijuana cultivator;
  - (b) Marijuana product manufacturer;
  - (c) Marijuana retailer;
  - (d) Marijuana testing facility;

# ORDINANCE

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- (e) Marijuana transportation or distribution facility; and
  - (f) Any other type of licensed marijuana-related business
- (4) In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
- (a) The name and address of each owner of the establishment;
  - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
  - (c) Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
  - (d) Proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter from the City of Gardner Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.
- (5) Mandatory findings. The special permit granting authority shall not issue a special permit for a marijuana establishment unless it finds that:
- (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
  - (b) The establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
  - (c) The applicant has satisfied all the conditions and requirements set forth herein.
- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or leasehold of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this § 675-1070.
- E. Abandonment or discontinuance of use.
- (1) A special permit shall lapse if not exercised within one year of issuance.
  - (2) A marijuana establishment shall be required to remove all personal property including but not limited to all material, plants, equipment, accessories, paraphernalia, and any other property no later than the earliest of: a) prior to surrendering its state issued licenses or permits; or b) within six months of ceasing operations.