



City of Portland
HHS/Public Safety Committee and Economic Development Committee
Joint Meeting

5:30 PM
Room 209, City Hall

1. Workshop on City of Portland Chapter 35 Draft Marijuana Regulations for review and direction, along with establishing next steps. Staff presentation by Heather Brown, Assistant City Manager
 - a. See enclosed transmittal memo and attachments.

PLEASE NOTE: No public comment will be taken on non-action items.

Councilor Belinda Ray, Chair/HHS and Public Safety Committee
Councilor Justin Costa, Chair/Economic Development Committee

MEMORANDUM

TO: Health and Human Services and Public Safety Committee; Economic Development Committee
CC: Greg Mitchell; Kristen Dow
FROM: Staff working group
RE: Marijuana Business Licensing Overview

This memo summarizes the highlights of the licensing ordinance drafted by a staff working group to allow the licensing of marijuana business and how the City's licensing scheme fits in with the existing zoning as well as state law.

Background

The State of Maine has established two separate types of marijuana businesses - medical and adult use (recreational). Medical marijuana caregivers have operated for years, as have medical marijuana dispensaries. Adult use marijuana businesses are not currently allowed, but with the recent adoption of rules that take effect in September, licensing for recreational uses are on the horizon.

The City of Portland adopted a conditional zoning ordinance late last year that will only take effect once the City passes its licensing ordinance. The proposal before the joint committee is that licensing ordinance. Once adopted, the City will be able to begin licensing both medical and adult use marijuana uses, including growing, testing, cultivation, and retail stores. Adult use marijuana businesses will not be able to open until licensed with the state.

The approach of the staff working group has been to generally treat medical and adult use marijuana uses similarly, because they will present similar challenges and have similar impacts on their neighbors and the City. For example, a large cultivation facility will function the same, regardless of whether it is growing for medical or adult use purposes. The same is true for retail, testing, or manufacturing.

The challenge in doing so is that the state has adopted extensive regulations for adult use marijuana uses, but not for medical uses. The regulations for medical uses are significantly less comprehensive, leaving what staff feels are gaps in protections for consumers, the City, and neighbors. For that reason, the proposed licensing tries to address those gaps.

Types of Licenses

Consistent with the zoning already in place, the licensing ordinance provides for five different categories of licenses:

1. Tier 1 Cultivation – cultivation of up to 500 sq. ft. of canopy for medical or adult use;

2. Tier 2 Cultivation – cultivation of up to 2,000 sq. ft. of plant canopy for medical or adult use;
3. Tier 3 Cultivation – cultivation of up to 7,000 sq. ft. of plant canopy for medical or adult use;
4. Manual Manufacturing – processing (extraction, baking, etc) using only low hazard processes;
5. High Hazard Manufacturing – processing using higher hazard processes;
6. Medical Retail – registered caregiver stores selling only to patients;
7. Adult Use Retail – stores selling to all individuals over age 21;
8. Small Scale Caregiver – caregivers selling to no more than five patients per month; and
9. Testing Facilities – providing testing services for adult use and medical marijuana.

All licenses will be granted by City staff, and all licenses – except for retail licenses, which will be discussed below – will go through the same application and review process.

Allocation of Retail Licenses

Staff is proposing to limit marijuana retail stores – both medical and adult use – to require a 250’ buffer between stores and between any store and dispensary. The goal of this buffer is to avoid having stores cluster in one location and to avoid oversaturation of the market. These concerns are based on lessons learned from other states and towns that permitted marijuana retail stores without those precautions and saw undesirable results in their jurisdictions. Limitations on retail stores in some fashion is being widely used in other Maine towns that have already adopted their regulations, including South Portland, which has a 300’ buffer between retail stores.

Staff is also proposing a cap on retail stores of 20 stores in the City. Other jurisdictions, including Hallowell and many out of state jurisdictions have limited the number of stores. Staff anticipates that this will be adequate to satisfy the initial demand for license, without allowing the industry to grow beyond what is sustainable or desirable for the City.

As written, the proposed ordinance provides for retail licenses to be allocated on a first qualified-first licensed basis. Under this system, applicants would be expected to submit a full and complete application, along with the non-refundable application fee. Staff would then evaluate the application for completeness and basic qualifications. A draft completeness checklist is included in your packet, although this would change with any ordinance revisions made by the Committees and the Council.

If the application is complete and meets all basic qualifications, it would move forward for review. If the license was granted, the applicant would have one year to open the retail store, including all building permits, other license, certificate of occupancy, etc.

If the application was not complete, the application would be rejected, the application fee forfeited, and the applicant would lose its spot in the first qualified-first licensed queue and

would have to reapply. Similarly, if the applicant did not open the retail store within one year, it would lose its spot in the queue and would have to reapply.

Staff did consider alternative methods for allocating retail licenses. One option considered was a “weighted” lottery - where stores competing for the same space would earn points for certain favorable attributes, such as experience, funding, etc. The proposed store with the most points would be awarded the license. Any tie would be determined by a lottery. The City of Aurora, CO used a similar system to award its licenses, and the relevant regulation is attached. If the City wanted to adopt this approach, then a matrix of criteria and points would have to be written and adopted.

Licenses could also be awarded by a pure lottery. Hallowell used this process to distribute its retail marijuana stores, and received some negative feedback. Staff does not recommend this path, as it does not favor those who are more prepared and/or qualified.

Finally, merit based consideration is an option. This would be similar to the weighted lottery in that criteria for evaluation would need to be developed and Council and/or staff would also have to convene a committee for evaluating applications. Although the state allocated its initial dispensary licenses based on merit, this would be a challenging process for the City to implement and is not recommended.

Application Requirements

The ordinance sets out certain criteria for all licensees. Of note are the following requirements:

1. Designation of a community relations liaison. The goal behind designating a community relations liaison is to have someone responsible to answer inquiries from the public. For a small scale caregiver, this will likely be the owner and caregiver, whereas for a larger operation, it could be a manager, PR person, or other.
2. Landlord permission. Similar to our requirement for short term rentals, marijuana businesses will have to provide notarized landlord permission to operate the marijuana business out of their chosen location.
3. Security plan. This plan will have to meet the minimum requirements of the ordinance, but the hope is that many businesses go above those minimum requirements to provide adequate security.
4. Waste disposal plan. Again, this plan will have to meet the minimum requirements of the ordinance, but requiring it up front is designed to have businesses thinking about waste disposal issues proactively.
5. Odor mitigation plan. The odor mitigation plan must be sufficient to eliminate the odor of marijuana either at the property line, or at the boundary with any other use within the same property, whichever is closer. For a small scale caregiver in a single-family home, this might involve a few carbon filters. The odor mitigation plan will obviously need to be much more involved for larger cultivation and processing facilities.

Certain types of businesses will also require:

6. Operations Plan. This plan will discuss growing and fertilizing methodology, inventory control, and similar information.
7. Quality Control Plan. This plan will require applicants to disclose the steps they will be taking to test their products and ensure the end product is safe for consumption.
8. Disclosure of Chemicals. Applicants will be required to disclose chemicals being used in the operation, as well as the SDS sheets for those chemicals. This will allow the City to monitor the chemicals, as well as ensure that inspectors and first responders are aware of potential hazards.
9. Engineer Certification. For certain businesses, an engineer must sign off on the facility and equipment.
10. Electrical Certification. Historically, marijuana businesses have taxed their electrical systems without an eye to safety. Most businesses will be required to provide a statement by a master electrician that the electrical system is safe and adequate for the proposed use.

All of the required plans will be reviewed, and staff can require changes to the plans, as necessary to accomplish the ordinance's goals. Approved plans must be kept on site so that they can be accessed by any inspector or other City official.

Performance Guarantee

Staff is proposing to require a performance guarantee be posted for each marijuana business, other than small scale caregivers or testing facilities. The performance guarantee will be in the estimated amount required to wind down the business safely and responsibly. This ensures that if a business is unsuccessful, there will be funds to properly dispose of any excess marijuana or marijuana products, as well as equipment, chemicals, etc. A successful and responsible marijuana business may have this requirement lifted after three years of operation.

Fees

The costs of implementing this licensing program in a responsible manner are significant. Applications for most business types will be extensive and time consuming. For the first several years of operation, it is also important to do regular inspections, and proposes routine inspections of most business types at least twice a year. In addition, we expect a fair amount of complaints as new businesses open up, which also take staff time to investigate and address.

To manage this, staff expects to add two staff members in the licensing office to manage applications, renewals, inspections, and complaints. Additionally, we propose to add one health inspector, one code officer, one fire inspector, and one police sergeant, each with specialized training in marijuana related inspections. All of the current inspectors will need additional

training in compliance issues for this new industry, as will all of the City's first responders who might be responding to emergencies or other calls at marijuana businesses. There will also be an increase in related overhead, including attorney time for questions and enforcement.

To cover these additional costs, the City is proposing application and annual fees as follows:

	App. Fee	Annual Fee	Expiration
Cultivation - Tier 1	\$500	\$500	September 30
Cultivation - Tier 2	\$500	\$5,000	September 30
Cultivation - Tier 3	\$500	\$10,000	September 30
Manufacturing - manual processing only	\$500	\$2,500	September 30
Manufacturing - high hazard processing	\$500	\$5,000	September 30
Retail - medical marijuana	\$500	\$5,000	September 30
Retail - adult use	\$500	\$10,000	September 30
Small scale caregiver	\$50	\$250	September 30
Testing	\$500	\$1,000	September 30

These fees will be added in to Chapter 15 along with all other licensing fees. By way of comparison, below are the fees from a few other jurisdictions in Maine. Some of the licenses do not perfectly line up with those being proposed in Portland, so they are close approximations.

	Portland	State	So. Portland	Auburn
Tier 1 Cultivation	\$500	\$500	\$600	\$1,000
Tier 2 Cultivation	\$5,000	\$3,000	\$600	\$1,500
Tier 3 Cultivation	\$10,000	\$10,000	\$600	\$2,500
Manual Mfg.	\$2,500	\$2,500	\$300	\$2,500
High Hazard Mfg.	\$5,000	\$2,500	\$300	\$2,500
Medical Retail	\$5,000		\$1,400	\$5,000
Adult Use Retail	\$10,000	\$2,500	\$1,400	\$5,000
Sm. Scale Caregiver	\$250	\$240/ patient	N/A	
Testing	\$1,000	\$1,000	N/A	\$2,500

Licensee Qualifications

Most of the qualifications required of individual and corporate applicants are fairly routine and also track state law requirements. Staff is, however, proposing to add one additional qualification – that the applicant, or any significant parties in the applicant if a corporate entity, does not have any “disqualifying violations.” We have defined that to include late payments to the City, a significant history of unresolved violations, and false statements. The goal behind this requirement is to ensure that bad actors, who have historically not met their obligations under the law, are not awarded licenses.

Additional Requirements

The remainder of the licensing ordinance has additional performance standards (security, waste disposal, odor), as well as some additional restrictions, a few of which are summarized:

1. Labeling. The goal of requiring labeling is allowing consumers to make informed choices. This will ensure that consumers are aware that the product they are purchasing contains THC, and whether or not it has been tested for quality, purity, and/or potency.
2. Food products. The ordinance prohibits making marijuana food products in a shape or design intended to appeal to minors (such as gummies), and adding marijuana to other brand name products (Coke, or Keebler cookies).
3. Manufacturing space for marijuana and non-marijuana products. Staff is recommending that marijuana and non-marijuana food products not be allowed to be manufactured in the same kitchen or on the same equipment as non-marijuana products. The reason for this is concerns about cross contamination of non-marijuana foods.
4. Retail delivery restrictions. The ordinance, as proposed, prohibits mobile sales, deliveries, mail order sales, and other remote sales. Small scale caregivers could still provide medical marijuana products by delivery.

Insurance and Indemnification

The final section requires marijuana businesses to maintain certain insurance levels, and also provides that accepting a license from the City requires the marijuana business to hold the City harmless from any consequences arising out of any prosecution of the business or any claim by a third party. Marijuana remains illegal at the federal level, and, although the City does not anticipate issues arising out that, the risk for operating in this industry should remain with the business itself, and not with the City. These types of provisions are not unique - Auburn has an indemnification clause in its ordinance, and other municipalities across the country have similar requirements.

Additional Ordinance Changes

Staff is proposing a few additional changes to several other chapters in the City Code. If the Committee is favorable to these changes, staff will prepare red-lined copies of those ordinances for the Committee's review.

CHAPTER 10

Chapter 10 contains the City's fire regulations. Several months ago, the HHS Committee reviewed proposed changes to Chapter 10 and recommended their passage by Council. Those changes have not yet been presented to the full Council, to give the opportunity to finalize the marijuana-related provisions. Now that licensing is nearly complete, staff is recommending the following changes to the draft Chapter 10:

1. Removing the fire permit specific to marijuana - the costs and inspections that were contemplated by this proposed permit have been incorporated into the license fee.
2. Add a requirement to install a sprinkler system in all marijuana uses. Staff feels this is an important requirement, given the danger that a fire could present in these types of uses.

CHAPTER 11

Chapter 11 regulates food and food licensing. Currently, the City does not license or inspect food processors who do not sell their products at retail. Staff is proposing to add an additional license for marijuana food processors. As part of this license, the City's health inspectors would inspect the processing space, and ensure that the processor has the required food safety certifications.

CHAPTER 15

The fee schedule listed above in this memo will be added into the fee schedule in Chapter 15.

CHAPTER 35. REGULATION OF MARIJUANA

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- 35-10. Reserved.**

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35-30. Reserved.

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35-37. Information Disclosure Requirements.

35-38. Waste Disposal Requirements.

35-39. Odor Mitigation Requirements.

35-40. Labeling Requirements.

35-41. Limitations on the Production and Sale of Marijuana Food Products.

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CHAPTER 35.

ARTICLE I. ADMINISTRATIVE PROVISIONS

35-1. Definitions.

Except as otherwise specified, the definitions in Chapter 14 shall apply to this Chapter.

Disqualifying conviction shall mean any of the following: (1) any felony conviction where the conviction or completion of any sentence, whichever is more recent, has been completed within the last ten years; or (2) any conviction for a drug related crime other than a felony, but not including convictions for marijuana related crimes, where the conviction or completion of any sentence, whichever is more recent, has been completed within the last five years.

Disqualifying violation shall mean, within the previous five years, the non-payment or late payment greater than 30 days of any tax or fee; any citation for licensing, land use, life safety, building, fire, health, or similar violation that was not corrected within the timeframe required by the City; any suspension, revocation, or denial of any license or permit; any false statement on a City form or application; and any other significant failure to comply with City ordinances.

Manual processing shall include the extraction, processing, or manufacturing of marijuana using only mechanical methods that do not involve the use of chemicals or solvents other than water or ice; and the infusion of marijuana in typical cooking fats and food additives.

Marijuana means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in 7 M.R.S. §2231(1), or a marijuana product.

Marijuana business shall mean any individual or entity cultivating, harvesting, manufacturing, processing, testing, selling or transferring, delivering, or otherwise engaging in any activity with respect to marijuana for profit within the City. This shall not include (1) individuals cultivating and processing marijuana for their personal consumption; or (2) caregivers who are not required to be registered pursuant to 22 M.R.S. Chapter 558-C.

Party of control shall mean an individual person, group of persons or entity that exerts more than minimal influence, through direct or indirect financial interest, over decisions regarding the operation of a marijuana establishment and is entitled to a share of the revenue or profits of the marijuana establishment. *Party of control* does not include state- or federally-chartered financial institutions like banks and credit unions.

35-2. Enforcement.

- a. This Chapter shall be enforced by the City Manager and his/her designee(s).
- b. Each day that a violation of this Chapter exists shall be a civil violation subject to the following:

1. *Civil penalties.* Each violation of this Chapter shall be subject to civil penalties in the minimum amount of \$100 and the maximum amount of \$2,500 per day that the violation has existed. However, the maximum amount of civil penalties may be increased where:
 - (a) There has been a previous violation or judgment against the same party within the past two years for a violation of this Article, except that the maximum civil penalties may not exceed \$25,000 per day; or
 - (b) The economic benefit resulting from the violation exceeds the applicable penalties, except that the maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation.
 2. *Posting against occupancy.* In addition to any other remedies provided by this Code, the City may take all necessary steps to immediately shut down any marijuana business and post the business and the space that it occupies against occupancy for any of the following violations:
 - (a) Operating a marijuana business without a valid City and state license;
 - (b) Failure to allow entrance and inspection to any City official on official business after a reasonable request;
 - (c) Allowing the use or consumption of marijuana or marijuana products on the premises of the marijuana business; and
 - (d) Any other violation that the City determines has the potential to threaten the health and/or safety of the public, including significant fire and life safety violations.
- c. The City Manager or his/her designee is authorized to cause to be instituted by the corporation counsel, in the name of the City, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this Chapter.
- d. If the City is the prevailing party in any legal action to enforce this chapter, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

35-3. Appeals.

Appeals of decisions made pursuant to this Chapter shall be as follows:

- a. An appeal from a decision to issue, issue with conditions, deny, or revoke a license pursuant to Article 2 may be appealed to Superior Court pursuant to M.R. Civ. P. 80B by a party with standing.

b. An appeal from any notice of violation, suspension, revocation, or similar enforcement action under this Chapter may be appealed to the City Manager or his/her designee by a party with standing within ten business days of the written decision taking such action. An appeal from any decision of the City Manager may be appealed to Superior Court pursuant to M.R. Civ. P. 80B.

35-4. Reserved.

35-5. Reserved.

35-6. Reserved.

ARTICLE 2. REGULATION OF MARIJUANA BUSINESSES

DIVISION 1. APPLICABILITY

35-7. Applicability.

This Article will apply to the operation of any marijuana business, as defined, within the City.

35-8. Reserved.

35-9. Reserved.

35-10. Reserved.

DIVISION 2. GENERAL LICENSE REQUIREMENTS

35-11. Licensing Requirements.

- a. Chapter 15 to apply. Except as otherwise provided in this Article, the provisions of Chapter 15 shall apply to all licenses applied for and issued under this Article
- b. Operating without a license prohibited. No individual or entity may operate a marijuana business within the City without first obtaining a license from the City.

- c. Burden of proof. The applicant for any license under this Article bears the burden of proving that all qualifications for licensure have been satisfied.
- d. Current information. Any applicant or licensee must keep all information disclosed in their application current and must notify the City of any change in information within ten business days of any such change.
- e. No vested rights. No person shall have any entitlement or vested right to a license under this Article, and operating a marijuana business is a privilege and not a right in the City.
- f. Licenses not transferable. Licenses issued pursuant to this Article are not transferable.
- g. Multiple licenses. An individual or entity may hold multiple licenses under this Article.

35-12. License Types.

The City has established the following license types for marijuana businesses:

- a. Cultivation – Tier 1. A Tier 1 marijuana cultivation license shall allow the license holder to cultivate up to 500 sq. ft. of marijuana plant canopy, and to sell harvested, unprocessed marijuana, marijuana plants, or seedlings at wholesale .
- b. Cultivation – Tier 2. A Tier 2 marijuana cultivation license shall allow the license holder to cultivate up to 2,000 sq. ft. of marijuana plant canopy, and to sell harvested, unprocessed marijuana, marijuana plants, or seedlings at wholesale.
- c. Cultivation – Tier 3. A Tier 3 marijuana cultivation license shall allow the license holder to cultivate up to 7,000 sq. ft. of marijuana plant canopy, and to sell harvested, unprocessed marijuana, marijuana plants, or seedlings at wholesale.
- d. Manufacturing – Manual. A manual manufacturing license shall allow the license holder to manufacture marijuana using manual processing only.
- e. Manufacturing – High Hazard. A high hazard manufacturing license shall allow the license holder to manufacture marijuana using chemicals and solvents in addition to manual processing methods.
- f. Retail – Medical. A medical marijuana retail license shall allow a registered caregiver to sell marijuana in accordance with Title 22, Chapter 558-C of the Maine Revised Statutes.
- g. Retail – Adult Use. An adult use marijuana retail license shall allow the license holder to sell adult use marijuana in accordance with Title 28-B of the Maine Revised Statutes.
- h. Small Scale Caregiver. A small scale caregiver license shall allow a registered caregiver to engage in the business of a small scale caregiver, as defined in Chapter 14, including cultivation, manual processing, and limited sales to patients, as defined.

- i. Testing. A marijuana testing license shall allow the license holder to engage in the business of testing medical and/or adult use marijuana for third parties.

35-13. Licensing Procedure.

- a. Applications submission. All applications for licenses under this Article shall be submitted to the Business Licensing Office on forms provided by the City, and shall include all required information, attachments, and fees. No application will be considered unless and until it is complete, as determined by the Business Licensing Office. Applications for retail stores shall be handled in accordance with Sec. 35-25.
- b. Review and recommendation by City departments. The following City departments shall review all applications and determine whether to issue, issue with conditions, or deny the permits applied for.
 - 1. The Permitting and Inspections Department shall review all applications for compliance with this Article, Chapters 6, 14, and 15 of this Code, as applicable, and all other matters within its purview.
 - 2. The Police Department shall review all applications as to the appropriateness of the applicant's security plan, any disqualifying convictions of the applicant and associated individuals, and all other matters within its purview.
 - 3. The Fire Department shall review all applications as to compliance with Chapter 10 of this Code, other fire and life safety concerns, and all other matters within its purview.
 - 4. Other City staff or departments shall review and provide recommendations on applications as necessary to adequately evaluate the applications.
- c. Hiring of third party professionals. Where the City determines that it is necessary for an applicant to hire a third party professional to complete any portion of the application, the City may require an applicant to hire a professional with qualifications sufficient to satisfy the City.
- d. City consultation with third party experts. Where the City determines that it is necessary for the City to consult with a third party expert on an application or portion of an application, it may do so and charge the costs of that third party expert consultation to the applicant. Before doing so, however, the City shall give notice to the applicant of its determination of need, including the basis for that determination; the third-party that the City proposes to engage; and the estimated fee for the third-party consultation. The applicant shall have the opportunity to provide feedback to the City on its determination before the City engages the third party.
- e. Licensing decisions. Applications for any license shall be granted, granted with conditions, or denied by the City Manager or his/her designee. Conditions may be imposed on any

license issued pursuant to this Article, as necessary to protect the health, safety, and welfare of the public.

- f. Allocation of retail licenses. Retail licenses shall be granted in the order that qualified applicants submit a completed application plus the non-refundable application fee.
1. Upon submission of an application, the City will perform a completeness review and establish that the applicant meets the minimum qualifications.
 - i. If the application is complete and the applicant meets the minimum qualifications, the City will fully review the application.
 - ii. If the application is incomplete, the City will reject the application. The applicant may reapply, but any second or subsequent application will be treated as a new application.
 2. If the application is approved, the applicant will have one year to open the retail business, including obtaining all final state and local approvals, building permits and approvals, certificates of occupancy, and any other criteria. If the applicant fails to meet the one-year deadline, it forfeits its approval. The applicant may reapply, but any second or subsequent application will be treated as a new application.
 3. Any applicant with a complete application, but who does not meet the 250' dispersal requirement or cap imposed by Sec. 35-42 below, may choose to be placed on a wait list for a period of up to one year.
 4. A licensee who has its license revoked, or who fails to timely renew its license shall forfeit its right to renew its retail license. The applicant may reapply, but any second or subsequent application will be treated as a new application.
 5. Licensees who have a medical marijuana retail license may convert to an adult use retail license so long as they meet the requirements for such license and pay the licensing fees. An applicant who chooses to convert its license will be treated as a renewal license, and not a new applicant for purposes of the dispersal requirement.

35-14. License Application.

Applications for all licenses under this Article shall be on forms provided by the City. In addition to any other information deemed necessary by the City, applicants shall provide the following information:

- a. *General application.*

1. The name, mailing address, physical address, and phone number of the business, as well as any other available contact information, including email address, fax number, website, etc.
 2. The name, mailing address, phone number, and email address of the following:
 - (a) The individual or corporate owner of the marijuana business;
 - (b) A community relations liaison, as described in [Sec. 35-32](#);
 - (c) A person with a physical address in the City who is authorized to accept service of process on behalf of the marijuana business; and
 - (d) An emergency contact, as described in [Sec. 35-32](#).
 2. A general description of the business, including hours of operation, type of business, etc.
 3. The license being applied for.
- b. *Corporate entity supplement.* Where the marijuana business is a corporate entity, the applicant must disclose the name, mailing address, phone number, and email address of each and every party of control, including any individual or corporate owners, officers, directors, managers, general partners, shareholders, and/or other parties responsible for the marijuana business
 - c. *Background check information and consent.* Where a background check of any kind is required by this Code, the applicant must provide all relevant information sufficient to conduct the background check, as well as any necessary consents.
 - d. *Landlord permission.* Notarized, written permission from the owner of the property where the marijuana business proposes to operate for the applicant to operate the marijuana business for which the applicant is applying.
 - e. *State authorizations.* Applicants must provide evidence of all required state authorizations, including evidence of a caregiver registration in good standing, a conditional license pursuant to Title 28-B, food license, and any other required state authorizations.
 - f. *Security plan.* A security plan, which shall be kept confidential, and which shall be sufficient to prevent the diversion of marijuana and marijuana products, and to protect the health and safety of owner, patrons, City officials, and the public.
 1. The security plan shall, at a minimum, address all of the security requirements included in [Sec. 35-35](#).
 2. The Police Department may require any reasonable modifications to the security plan that it deems necessary.

3. A copy of the approved security plan shall be maintained at the applicant's site at all times and shall be made available to any City representative upon request. Any modifications to the security plan before or after licensing must be reviewed and approved by the Police Department.
- g. *Waste disposal plan.* A waste disposal plan, which shall be sufficient to prevent diversion of marijuana or marijuana product, and shall be sufficient to prevent contamination of land, water, and sewer; and
 1. The waste disposal plan shall, at a minimum, address all of the waste disposal requirements included in Sec. 35-38.
 2. The City may require any reasonable modifications to the waste disposal plan that it deems necessary.
 3. A copy of the approved waste disposal plan shall be maintained at the applicant's site at all times and shall be made available to any City representative upon request. Any modifications to the waste disposal plan before or after licensing must be reviewed and approved by the City.
- h. *Odor mitigation plan.* An odor mitigation plan, which shall be sufficient to eliminate the smell of marijuana at the property boundary or at any adjoining use of the property, whichever is closer.
 1. The odor mitigation plan shall at a minimum, address all of the odor mitigation requirements included in Sec. 35-39.
 2. The City may require any reasonable modifications to the odor mitigation plan that it deems necessary, including requiring that the plan be designed by a qualified, licensed professional engineer.
 3. A copy of the approved odor mitigation plan shall be maintained at the applicant's site at all times and shall be made available to any City representative upon request. Any modifications to the odor mitigation plan before or after licensing must be reviewed and approved by the City.
- i. *License specific requirements.* A licensee must provide the additional information specific to the license being applied for, as described in Sec. 35-23 through 35-44.
- j. Any other information that the City Manager decides is necessary to evaluate an application under this Article.

35-15. Performance Guarantee Required.

- a. For all marijuana businesses, other than small scale caregivers and marijuana testing facilities, a performance guarantee shall be required for the cost of winding down the

marijuana business, including proper disposal of all marijuana, marijuana plants, and marijuana product; disposal of chemicals and solvents; disposal of specialized equipment; and resolution of any outstanding compliance issues..

- b. The performance guarantee shall be supplied before the issuance of the final license.
- c. This requirement may be satisfied by surety bond, letter of credit, escrow account, or by evidence, acceptable to the City, of the financial and technical ability and commitment of the applicant or its agents to wind down the business in full compliance with all federal, state, and local requirements.
- d. At the sole discretion of the City Manager or his/her designee, the marijuana business may be released from its obligation to maintain the performance guarantee after three years of successful and responsible operation acceptable to the City.

35-16. Fees and Costs.

- a. The initial application fee, annual licensing fee, and expiration date for licenses issued under this Article shall be as listed in Chapter 15 of this Code. Application fees shall be due only for the initial application, or any time that the applicant makes substantial changes to the licensed business and requires re-approval.
- b. Applicants shall also be responsible for paying the City's reasonable expenses associated with the review of an application, including:
 - 1. Any required criminal background checks;
 - 2. Any costs of notification; and
 - 3. The cost of any independent, third-party review, where the City determines it is necessary to effectively evaluate an application.
- c. Application fees and any expenses charged pursuant to this section shall be non-refundable.
- d. Upon request of the applicant, the Annual Fee may be refunded if the applicant 1) withdraws its application prior to the granting of the license; 2) is denied a marijuana business license; or 3) notifies the City that it is abandoning its license prior to opening the marijuana business. Refunds must be requested within 60 days of withdrawal, denial, or abandonment.

35-17. Minimum Qualifications for Individual Applicants.

All natural persons who apply for a license under this Article shall meet all of the following requirements:

- a. Be at least 21 years of age;
- b. Not have any disqualifying convictions or currently be subject to prosecution for a disqualifying conviction;
- c. Not have any disqualifying violations;
- d. Not have been an owner, officer, director, manager, general partner, shareholder, or other responsible party in any corporate entity with disqualifying violations within the past two years;
- e. Not have any revocation or suspension of a marijuana-related license, permit, certificate, or registration;
- f. Not be employed by any state agency or City department with regulatory authority over the marijuana business, including the City Executive Department, Police Department, Permitting and Inspections Department, Planning Department, Fire Department, and Corporation Counsel's Office; and
- g. Not be a law enforcement officer.

35-18. Minimum Qualifications for Corporate Applicants.

All corporate or other entities who apply for a license under this Article shall meet all of the following requirements:

- a. Be formed or organized under the laws of the State of Maine;
- b. Be in good standing with the Maine Secretary of State;
- c. Not have any disqualifying violations within the past two years; and
- d. Have all officers, directors, managers, and general partners be natural persons who meet the minimum requirements for an individual applicant in [35-17](#) above.

35-19. Suspension and Revocation.

- a. Grounds for suspension. In addition to the grounds for suspension enumerated in Chapter 15, the following shall be grounds for suspension of a license pursuant to this Article:
 - 1. Any event or condition that would have disqualified an applicant from obtaining an original license, until that disqualification is resolved;
 - 2. The licensee has failed to timely supplement its license information, as required;

3. The licensee has failed to file any required reports or furnish any information, as required; and
 4. The licensee has knowingly permitted, encouraged, failed to prevent, or failed to remedy a violation of this Article.
- b. Length of suspension. Any first suspension pursuant to this Article may not exceed six months. Any second and subsequent suspensions may not exceed one year.
 - c. Grounds for revocation. In addition to the grounds for revocation enumerated in Chapter 15, the following shall be grounds for revocation of a license pursuant to this Article:
 1. Failing to timely remedy any condition in (a) above;
 2. Repeated significant violations of this Article.
 - d. Length of revocation. Any license revocation shall prohibit the licensee from being a party of control in any marijuana business for one year.
 - e. Procedures for suspension or revocation. Suspension or revocation proceedings shall be conducted by the Permitting and Inspections Department pursuant to the following procedures:
 1. Prior to suspension or revocation, a licensee shall be given notice of the reasons that the City is considering the action and an opportunity to be heard.
 2. Where the reason for suspension or revocation could reasonably threaten health, safety, and/or welfare, a license may be suspended without notice and hearing, so long as notice and an opportunity to be heard is provided as soon as practicable.
 3. Suspensions or revocations will be issued in writing.

35-20. Reserved.

35-21. Reserved.

35-22. Reserved.

DIVISION 3. SPECIFIC LICENSE REQUIREMENTS

35-23. Cultivation Licenses.

In addition to the requirements provided elsewhere in this Article, an applicant for any tier of cultivation license must also provide the following:

- a. The amount of plant canopy to be grown;
- b. Floor plans, including the location of mature, immature, and seedling plants, storage areas, office areas, etc.;
- c. Operations plan, including growing and fertilizing methodology, inventory control, transportation, overview of policies and procedures, and similar information;
- d. Quality control plan detailing the testing protocols and schedules to ensure the safety of the marijuana being cultivated;
- e. Disclosure of chemicals, fertilizer, and similar substances to be used in the cultivation process, the quantities of such substances, and the Safety Data Sheets for any covered products to be used in the operation;
- f. Written certification by a qualified engineer that the cultivation facility, equipment, and operation meet all requirements of Chapter 38 of NFPA 1, as adopted by Chapter 10 of this Code; and
- g. Written certification by a Maine certified Master Electrician that the cultivation facility and operation meets all electrical standards adopted by the State of Maine and/or the City.

35-24. Manufacturing Licenses.

In addition to the requirements provided elsewhere in this Article, an applicant for a manufacturing license must also provide the following:

- a. Description of manufacturing processes to be used, including extraction methods;
- b. Floor plans, including the location of processing equipment, storage areas for marijuana, chemicals and solvents, and other items; office areas, etc.;
- c. Operations plan, including intake and inventory control, transportation, overview of policies and procedures, and similar information;
- d. Quality control plan detailing the testing protocols and schedules to ensure the safety of the products being manufactured;
- e. Disclosure of chemicals, solvents, and similar substances to be used in the cultivation process, the quantities of such substances, and the Safety Data Sheets for any covered products to be used in the operation;

- f. Written certification by a certified professional engineer, licensed by the State of Maine, that the manufacturing facility, equipment, and operation meet all requirements of Chapter 38 of NFPA 1, as adopted by Chapter 10 of this Code;
- g. Written certification by a Maine certified Master Electrician that the cultivation facility and operation meets all electrical standards adopted by the State of Maine and/or the City; and
- h. Where a licensee will manufacture food or food products, the licensee must also, provide proof of licensing pursuant to the Maine Food Code and Chapter 11 of this Code.

35-25. Retail Licenses.

In addition to the requirements provided elsewhere in this Article, an applicant for a retail license must also provide the following:

- a. Total square footage of the facility under the control of the applicant and dedicated to the retail facility and ancillary activities;
- b. Floor plans, including the location of retail space, storage areas for marijuana products, areas dedicated to the sale of non-marijuana products, office areas, etc.;
- c. Operations plan, including overview of policies and procedures, including policies and procedures to prevent sales to minors, and similar information; and
- d. Documentation that the marijuana retail facility meets the dispersal requirements of Sec. 35-25.

35-26. Small Scale Caregiver License.

In addition to the requirements provided elsewhere in this Article, an applicant for a retail license must also provide the following:

- a. Total square footage dedicated to the small scale caregiver use;
- b. Total plant canopy;
- c. Floor plans, including the location of mature, immature, and seedling plants, storage areas, office areas, etc.;
- d. Quality control plan detailing the testing protocols and schedules to ensure the safety of the products being manufactured; and
- e. Operations plan, including overview of policies and procedures, including policies and procedures to prevent sales to minors and to ensure that the small scale caregiver operation does not exceed the five patients in one calendar month, and similar information.

35-27. Marijuana Testing License

In addition to the requirements provided elsewhere in this Article, an applicant for a retail license must also provide the following:

- a. Floor plans, including the location of testing equipment; storage areas for marijuana samples, chemicals and solvents, and other items; office areas, etc.;
- b. Operations plan, including intake and inventory control, transportation, overview of policies and procedures, and similar information;
- c. Disclosure of chemicals, solvents, and similar substances to be used in the testing process, the quantities of such substances, and the Safety Data Sheets for any covered products to be used in the operation; and
- d. Proof of accreditation pursuant to ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the State.

35-28. Reserved.

35-29. Reserved.

35-30. Reserved.

DIVISION 3. PERFORMANCE STANDARDS.

35-31. Applicability.

Except where otherwise indicated, the performance standards in this Division shall apply to all marijuana businesses.

35-32. Cooperation with municipal officials.

- a. The City Manager's designees shall be permitted to enter any marijuana business during regular business hours for the purpose of making inspections, and examining and copying records.

- b. Each and every person responsible for the management or control of the marijuana business must afford free access to every part of such establishment and to render all aid and assistance necessary to enable the City to make a full, thorough and complete examination thereof to determine compliance with this Article.
- c. Each marijuana business shall designate a community relations liaison, who shall be responsible for receiving and responding to inquiries from, and reasonably addressing concerns raised by members of the public and other individuals.
- d. Each marijuana business shall designate an emergency contact who shall respond to all non-emergency contacts by the City within 72 hours of contact, and to any emergency contact by the City within two hours of contact.

35-33. Record retention Requirements.

In addition to those records required to be kept and maintained by the State of Maine, all marijuana business licensee shall also keep the following records:

- a. Invoices of all purchases for the previous two years demonstrating the source of those purchases;
- b. Receipts of all sales for the previous two years;
- c. Testing results, if any, for the previous two years;
- d. A copy of all current state and local licenses; and
- e. Information about each concern addressed to the community relations liaison; including the date and time of the contact; the substance of the concern raised; the contact information of the originator of that contact; the date and time of the licensee's response; and the substance of the response.

35-34. Compliance with Approvals.

All licensees under this Article shall comply with their approved plans, including security plans, waste disposal plans, operating plans, odor mitigation plans, and any other plans that are submitted to and approved by the City.

35-35. Security Requirements.

All marijuana businesses must implement the following security requirements, at a minimum, which security requirements shall also be incorporated into a security plan.

- a. Building security. All fixed locations for a marijuana business shall have the following:

1. Exterior lighting sufficient to deter nuisance activity and facilitate surveillance but not disturb neighbors.
 2. Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition.
 3. Interior electronic monitoring, video cameras, and panic buttons. Electronic monitoring and video camera recording records must be maintained for at least 14 days.
 4. Exterior electronic monitoring and video cameras. Electronic monitoring and video camera recording records must be maintained for at least 14 days.
 5. Consistent and systematic prevention of loitering.
 6. A locking safe or its functional equivalent, as determined by the Police Department, permanently affixed to the premises that is suitable for storage of all adult use marijuana product, medical marijuana product, and cash stored overnight on the premises.
 7. Any other security features that the Police Department deems necessary to ensure public safety and prevent theft and illegal transfer of marijuana.
- b. Mobile security. All mobile operations of a marijuana business, including pick-ups and deliveries of samples for testing, wholesale products, deliveries by small scale caregivers, and similar functions shall have the following security:
1. The vehicle may not have identifying marks associating the vehicle with a marijuana business;
 2. The vehicle must have at least two individuals present in the vehicle.

35-36. Responsibility for Employees, Guests, and Customers.

- a. A marijuana business shall be responsible for all individuals on their premises.
- b. A marijuana business shall not allow an individual to enter or to remain on their premises who is
 1. Disorderly;
 2. Intoxicated;
 3. A threat to safety; or
 4. Has consumed or attempted to consume marijuana on the premises.

35-37. Information disclosure requirements.

- a. A copy of the business license issued pursuant to this Article must be prominently displayed at each location of the marijuana business.
- b. The business license number issued to each marijuana business must be clearly disclosed in all written advertising, marketing, and promotional materials.
- c. Each marijuana business must disclose the telephone number of its community relations liaison, after the statement, “For questions or concerns contact [number]” in all written advertising, marketing, and promotional materials; and must be prominently displayed at each location of the marijuana business.
- d. A sign, prominently displayed near the entrance to the marijuana business stating the minimum age to enter the business and, if a retail store, the minimum age to purchase products from the retail store.

35-38. Waste Disposal Requirements.

1. No marijuana, marijuana products, marijuana plants, or other marijuana waste may be stored outside, other than in secured, locked containers.
2. No marijuana, marijuana products, marijuana plants, or other marijuana waste may be disposed of unless and until it has been modified such that it is not useable.
3. All wastewater from any marijuana facility must be treated such that it will not create excessive odors, contamination, or pollution.

35-39. Odor Mitigation Requirements.

The smell of marijuana shall not be detectable at the property boundary or at any adjoining use of the same property, whichever is closer. A marijuana business licensee is responsible for taking any and all measures necessary to ensure that this standard is met.

35-40. Labeling.

Any marijuana business that sells marijuana or marijuana products at retail, must label all products as follows:

- a. All marijuana must be in labeled containers meeting the requirements of this section.

- b. All required statements must be in a font and size that is readily legible to the average person.
- c. Where applicable, the label must contain the following:
 - 1. A statement that the marijuana or marijuana product contains THC;
 - 2. If the marijuana or marijuana product has been tested for quality, purity, or potency, and any such representations are made about the marijuana or marijuana product, the following must be disclosed in close proximity to that representation:
 - i. The name, location, and license number of the testing facility; and
 - ii. The date of the test results.
- d. If the marijuana or marijuana product has not been tested for quality, purity, and/or potency, a statement that the product has not been tested for quality, purity, and/or potency.

35-41. Limitations on the Production and Sale of Marijuana Food Products.

The following limitations apply to the manufacture and sale at wholesale or retail of food or beverage products containing marijuana:

- a. Marijuana products may not be manufactured or sold in a shape or design that is intended to appeal to minors;
- b. Marijuana or marijuana derivatives may not be added to commercially available products that do not otherwise contain marijuana; and
- c. Marijuana food and beverage products may not be manufactured, processed, or packaged in the same kitchen or room, or using the same equipment, as non-marijuana food and beverage products.

35-42. Additional Retail Store Requirements.

Retail stores licensed pursuant to this Article must also meet the following performance standards:

- a. Hours of operation. Marijuana retail stores may only be open to the public between the hours of 7:00 a.m. and 10:00 p.m. daily, and no sale or other distribution of marijuana may occur on the premises outside of those hours.
- b. Age restrictions.
 - 1. A medical marijuana retail store may not allow any individual under the age of 18 to enter their premises, including as an employee.

2. An adult use marijuana retail store may not allow any individual under the age of 21 to enter their premises, including as an employee.
- c. On-premises consumption of any products. The sale of food or beverages, whether they contain marijuana or not, for on-premises consumption is prohibited.
- d. Other uses prohibited. Marijuana retail stores may not have uses other than marijuana retail or other retail, including entertainment or restaurant uses.
- e. Education requirements. Marijuana retail stores must distribute a leaflet, brochure, or flyer with every marijuana product sold that informs the purchaser of:
 1. Appropriate dosage of marijuana products and the dangers of over consumption; and
 2. That consumption of marijuana and marijuana products in public is illegal.
- f. Fixed location sales only. A marijuana retail store may only sell marijuana and marijuana products in person, directly to the purchaser, and out of a fixed location. Mobile sales and/or deliveries are specifically prohibited, as are mail order, telephone, internet or similar remote sales.
- g. Drive through windows. A marijuana retail store may not use a drive through window, or any other outdoor space to sell marijuana or marijuana products.
- h. Dispersal requirement. A marijuana retail facility may not be located within 250' of any other marijuana retail facility or marijuana dispensary, as measured along or across public ways, in a straight line, from any entrance that is accessible to the public.
 1. This distance restriction shall not apply to one adult use and one medical marijuana retail facility that 1) share the same or immediately adjoining space; 2) have common ownership; 3) have consistent naming and branding; and 4) are permitted by the state to share such space.
- i. Cap on retail stores. The number of retail stores in the City shall be capped at 20.

35-43. Signs.

In addition to the sign regulations contained in Chapter 14 of this Code, marijuana businesses shall also be subject to the following restrictions on signs:

- a. Signs shall not contain the image of a marijuana leaf, plant, or readily identifiable marijuana product;
- b. Signs may not be animated or have variable messages;
- c. Signs may not have cartoons or similar images that are likely to appeal to minors; and

- d. Marijuana businesses may not advertise by leaflets or flyers placed or posted outside of the business premises.

35-44. Other Prohibitions.

- a. On-premises consumption. Consumption of marijuana on the premises of any marijuana business is prohibited.
- b. Outdoor growing. Marijuana plants may not be grown outdoors and may only be grown within a fully enclosed and secured structure.
- c. Indoor air quality. A marijuana business may not use any chemical, process, or methodology that would result in compromised indoor air quality, including the use of technology such as sulfur pots.
- d. Giveaways and samples prohibited. Marijuana businesses may not distribute marijuana or marijuana products free of charge.

35-45. Insurance and Indemnification.

- a. Each marijuana business, other than a small scale caregiver, shall procure and maintain occurrence based commercial general liability coverage in the minimum amount of \$1,000,000.00 per occurrence for bodily injury, death, and property damage.
- b. Each small scale caregiver shall procure and maintain occurrence based commercial general liability coverage in the minimum amount of \$500,000.00 per occurrence for bodily injury, death, and property damage.
- c. Evidence of insurance required herein shall be a condition of the issuance of any license under this article, and shall be submitted to the City prior to obtaining the final license. Certificates shall guarantee ten days notice to the City of termination of insurance from the insurance provider or agent. The City's acceptance or lack of acceptance of such evidence shall not be construed as a waiver of the applicant's obligation to obtain and maintain such insurance as required by this article.
- d. By accepting a license from the City for a marijuana business, the licensee knowingly and voluntarily waives, releases and discharges the City from all claims, causes of action and demands, both known and unknown, which it has ever had, or may have against the City, or any of its officers, agents, employees, representatives, insurers, successors and assigns for 1) any injuries, damages, or liabilities resulting from the arrest, prosecution, or other consequence of the marijuana business or its parties of control for a violation of local, state, or federal laws, rules, or regulations; and 2) any claim by a third party against the marijuana business.

- e. To the fullest extent permitted by law, the licensee shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney's fees arising out of, resulting from, or relating to the performance of any license issued to licensee under this Article or the operation of the licensee's marijuana business. Such obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the City which otherwise exists. The extent of the indemnification provision shall survive termination of any license issued to a licensee under this Article and shall not be limited by the provision for insurance in this Article.
- f. This article shall not be construed as imposing upon the City or any official, agent, or employee of the City, any liability or responsibility for damages to any person resulting from or in relation to the performance of this license, nor shall the City or any official, agent or employee of the City be deemed to have assumed any such liability or responsibility by reason of inspections authorized herein, or the issuance of any license.

Completeness

Forms

- ☐ Fully completed application, including all contact information
- ☐ Corporate entity supplement, if the applicant is a corporation, LLC, etc.
 - ☐ Copy of articles of incorporation
 - ☐ Copy of latest annual filing
- ☐ Background check consent for each officer, director, manager, and/or general partner
- ☐ Notarized landlord permission OR copy of a deed in the name of the applicant

Attachments

- ☐ State authorizations
- ☐ Security plan
- ☐ Waste disposal plan
- ☐ Odor mitigation plan
- ☐ Floor plans
- ☐ Operations plan
- ☐ Documentation of spacing from existing retail spaces

Fees

- ☐ Application fee

Minimum Qualifications

- ☐ Age
- ☐ No disqualifying convictions for officers, directors, managers, and/or general partners
- ☐ No disqualifying violations for officers, directors, managers, and/or general partners, or entities in which those individuals have had responsible control
- ☐ Not have any revocation of a marijuana-related license, permit, certificate, or registration
- ☐ Not be employed by a state agency or City department with regulatory authority over the marijuana business
- ☐ Not be a law enforcement officer

Corporations

- ☐ Formed or organized in Maine
- ☐ In good standing with Secretary of State
- ☐ No disqualifying violations

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Rule 204: Licensing Procedure – Retail Marijuana Stores.

The city will issue no more than 24 retail marijuana store licenses, with a limit of four such licenses to be issued in each of the six council wards. The retail marijuana store licenses will be awarded via a competitive process involving a two-stage review of the applications received.

204.1 Initial Review. The initial criteria considered for review by the local licensing authority for an application for a retail marijuana store license must be satisfied in full before the applicant will be entered into the point system review. The initial review standards are defined as follows:

- (a) The State of Colorado has accepted the applicant's application for a retail marijuana store license;
- (b) The applicant can demonstrate at least \$400,000 of liquid assets in control and available, as evidenced by bank statements, lines of credit, or the equivalent to show that the applicant has sufficient resources to operate;
- (c) The applicant has no felony convictions for ten years, no drug-related misdemeanor convictions for five years, and no drug-related felony convictions;
- (d) The applicant must have at least two years of experience, as defined below in Rule 204.3, operating a licensed marijuana establishment in Colorado as an owner or manager;
- (d) The applicant's proposed store location satisfies the minimum distance requirements of at least 1,000 feet from a school serving pre-school through twelfth grade students and 500 feet from a hospital or substance abuse treatment center, as measured from the nearest property boundary of these uses to the address point of the retail marijuana store; and
- (e) The business must certify that it has satisfied or will meet the minimum security requirements of the CRMC and Rule 305 of these regulations prior to opening.

204.2 Liquid Asset Requirement. All applicants for retail marijuana store licenses must demonstrate a minimum of \$400,000 in liquid assets under control and available at the time of application. This threshold must be separately met for each of the retail marijuana stores for which the applicant is seeking licensure.

Only assets held or titled in the name of the actual applicant will qualify toward meeting this requirement – for example, in the case of a corporate applicant, the personal assets of owners or assets of related business entities would not be considered. For jointly held assets, only the applicant's portion of ownership will be considered toward the minimum requirement.

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The applicant must provide satisfactory documentation of asset ownership such as bank statements, lines of credit, stock certificates, and invoices or receipts. The local licensing authority has discretion to make final determinations as to whether assets qualify as liquid assets and whether sufficient proof of ownership in the name of the applicant has been demonstrated.

204.3 Point System Review. The local licensing authority shall review each application that satisfies the minimum requirements set forth in Rule 204.1 and award points to each applicant as follows:

Differentiator	Qualifier	Points
Experience operating a licensed marijuana establishment in Colorado (Cumulative)	3 Years	+1
	4 Years	+1
	5 Years	+1
Experience operating a licensed marijuana establishment in Colorado without administrative penalties or license revocation (Cumulative)	3 Years	+1
	4 Years	+1
	5 Years	+1
The applicant, and the applicant's principal officers and executives were in compliance with all tax laws	Demonstrated history of timely payment (1 year) and no criminal, civil, or administrative actions in the past 3 years	+2
Applicant criminal background history	No felony convictions	+2
	No pending charges	+2
	No drug-related misdemeanor convictions	+2
Manager and employee criminal background history	No felony convictions	+2
	No drug-related misdemeanor convictions	+2
Building contains a filtration or air scrubbing system	Minimize odors and public nuisance complaints	+3

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Demonstrates enhanced security in excess of minimum requirements	Deter criminal activity and minimize police supervision of premises	+2
Operating Plan	Ensure adequate staffing, security, employee training, consumer education, and compliance with state and local laws.	+1 to +10
Business Plan	Define scope of planning and capital improvements, estimate revenue and expenses, and demonstrate ability to operate in highly regulated industry.	+1 to +10
Total Score		43

- (a) Burden of Proof. The applicant is responsible for identifying the bonus point criteria for which they are applying. The local licensing authority will not presume proposed qualifications without supporting documentation.
- (b) Experience Requirement. At least one member of the ownership group applying for licensure must have two years or more of experience operating a licensed marijuana establishment in Colorado, and bonus points will be awarded for additional experience beyond this minimum requirement. In evaluating an applicant's experience level and history as an operator of a licensed marijuana establishment, the local licensing authority will apply the following standards:
- (1) Operating experience is defined as an individual with an active ownership or managerial role who made administrative decisions for the establishment.
 - (2) The applicant's experience must demonstrate knowledge of the business practices and protocols of a retail marijuana store, such as security requirements, awareness of limited access areas, administration of the marijuana inventory tracking system, and understanding of applicable laws and regulations for the industry.
 - (3) Only the industry experience of those members of the ownership group with at least a twenty percent (20%) ownership interest in the business entity applying for licensure will be considered.

The provisions above apply to both the minimum experience requirement of two years set forth in Section 6-309(a)(4) of the Aurora Municipal Code and to any bonus points awarded under Section 6-309(b) of the Aurora Municipal Code, as described in the chart above.

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- (c) Administrative Penalties. In evaluating an applicant's history of operating a licensed marijuana establishment without administrative penalties, the local licensing authority will review property histories, police reports, and other relevant documentation to determine whether the applicant, or an establishment the applicant has operated or managed, has previously been:
 - (1) Subject to a license suspension or revocation;
 - (2) Fined or charged with an administrative penalty; or
 - (3) Received a court summons related to the operation of the licensed establishment.
- (d) Tax Compliance. In evaluating an applicant's history of tax compliance, the local licensing will review the federal, state, and local tax returns of the applicant and any of the owners of the applicant, to determine whether a timely history of payment has been established. The local licensing authority will also review available public records to determine whether the applicant and any of the owners of the applicant, have in the past three years been subject to any tax-related liens, seizures, or fines, or have been convicted of a tax-related criminal offense.
- (e) Security Plan. All applicants must include a security plan as part of their application package, which will be reviewed by the local licensing authority in conjunction with members of the Aurora Police Department. If the applicant's plan is able to sufficiently demonstrate security measures in excess of the minimum requirements set forth in state regulations, the applicant shall be awarded two points. Such enhanced security measures shall include, but are not limited to, steel security doors, improved video surveillance system capabilities, and advanced alarm systems.
- (f) Business Plan. The business plan is to demonstrate the applicant's ability to successfully operate in a highly regulated industry over an extended period of time. The local licensing authority will review all business plans submitted, and shall assign a score of between one and ten points. The content by which the local licensing authority will evaluate business plans may include, but is not limited to the following: scope of work for the planning and development; scope of work for capital improvements; an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in a highly regulated industry. The business plan will be reviewed and scored by an independent three-person panel, with the final score being the average of the scores from each of the three panel members, rounded to the nearest whole number.
- (g) Operating Plan. The operating plan is to enumerate the specific means through which the applicant intends to achieve the business goals and comply with the city and state regulatory requirements. The local licensing authority will review all operating plans submitted, and shall assign a score of between one and ten points. The content by

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which the local licensing authority will evaluate the operating plans may include, but is not limited to the following: staffing schedules to ensure adequate coverage and experience during all business hours; employee training programs for security, product knowledge and safety; proactive consumer education and community outreach practices; and an operations manual demonstrating compliance with state and city retail marijuana laws. The operating plan will be reviewed and scored by an independent three-person panel, with the final score being the average of the scores from each of the three panel members, rounded to the nearest whole number.

- (h) Protection from Disclosure. The security plan will be protected from public disclosure as provided under the Colorado Open Records Act, § 24-72-204(2)(a)(VIII), C.R.S. If the applicant believes that portions of the business plan or operating plan would cause a competitive disadvantage to the applicant if disclosed pursuant to an open records request, the applicant should identify the specific sections of the plan that would cause the competitive disadvantage and request that those portions be protected from disclosure. The general policies for disclosure of application materials are described in Rule 702.3 below.
- (i) Permanency of Bonus Points. With the exception of the business plan and operating plan, retail marijuana store applicants will be held accountable for any information submitted which may result in bonus points being awarded in the point system review process. Such criteria are subject to reevaluation during the inspection and license renewal processes, and any failure of the applicant to adhere in a timely manner to the criteria by which bonus points were awarded may result in penalties including, but not limited to, revocation of the store license.

204.4 Award of Store Licenses. The local licensing authority shall issue a retail marijuana store license to the four applicants in each ward that earn the highest point totals pursuant to Rule 204.3. In the event that two or more applicants applying for licensure in the same ward receive the same total score, and the applicants cannot all be issued a license, the local licensing authority shall randomly select the applicants that will be awarded a retail marijuana store license.

204.5 Limitation on Number of Licenses per Person. No person may hold an ownership interest in more than six retail marijuana stores located throughout the city. While a person may submit an unlimited number of applications for retail marijuana store licensure, a maximum of six licenses may be awarded to any particular owner.

In evaluating the applications submitted by a person with ownership interest in multiple prospective retail marijuana stores, the top-scoring applications in each of the wards in which the applicant submitted applications will be considered first. For example, if a person submitted three retail marijuana store applications in each of four separate wards,

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RETAIL MARIJUANA ESTABLISHMENT RULES AND REGULATIONS

February 2016

the top-scoring application submitted by that person in each of the four wards must be considered for licensure before their second-ranked application in any of the four wards will be evaluated. Similarly, the second-ranked applications by the person in each of the wards must be considered for licensure prior to evaluating their third-ranked application in each ward. In the event that six licenses are awarded to any person, any additional applications in which that person has an ownership interest will be disregarded.

Rule 205: Licensing Procedure – Retail Cultivation, Retail Manufacturing and Retail Testing Facilities.

- 205.1 Distance from Residential Areas. No retail marijuana cultivation, product manufacturing or testing facility shall be permitted within 300 feet of an existing residential use, excluding any nonconforming residential use, or any residential or open zoning district. This distance shall be measured from the nearest property boundary of such use or district to the nearest property boundary of the marijuana cultivation, product manufacturing or testing facility.
- 205.2 Prohibited Materials and Processes. Retail marijuana product manufacturers are prohibited from using metals, butane, propane, or other solvents or flammable products that produce flammable vapors to process or test marijuana unless a certified industrial hygienist has verified that the method used and the premises are safe and in compliance with all applicable rules and regulations. Any retail marijuana establishment proposing to process or test retail marijuana through the use of such chemicals or processes must present documentation from a certified industrial hygienist confirming that the method used for producing, extracting, or testing marijuana or marijuana products does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the establishments.
- 205.3 Testing Facility Ownership. Pursuant to Rule 702(A) of the RMR, any person who is an owner of a retail marijuana store, retail marijuana cultivation facility, retail marijuana product manufacturing facility, or any medical marijuana business shall not be permitted to have an ownership interest in a retail marijuana testing facility.

Rule 206: Licensing Requirements.

Before issuing a local license for a retail marijuana establishment, the local licensing authority shall determine that the applicant has satisfied all of the following requirements:

- (a) The applicant has satisfied all requirements in Rules 203, 204 and 205;
- (b) The application is complete, including all required and requested supplemental documentation;
- (c) The city's portion of the application fee has been received from the state, and the applicant has paid the operating fee and any applicable additional fees.