



ECONOMIC DEVELOPMENT COMMITTEE

DATE: Tuesday, November 26, 2019

TIME: 5:30 PM

LOCATION:

City Council Chamber, Second Floor/Portland City Hall

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

- 1. Review and accept Minutes from last joint meeting held on August 6, 2019.**
 - a. See attached draft Minutes for review and acceptance.
- 2. Staff presentation of City of Portland Chapter 35 Draft Marijuana Regulations for review and direction, along with taking public comment. Staff presentation by Jessica Hanscombe, Licensing and Housing Safety Manager.**
 - a. See attached transmittal memo and attachments.

Councilor Belinda Ray/Chair of the Health and Human Services and Public Safety Committee.

Councilor Justin Costa/Chair of the Economic Development Committee

Next meeting date: To be determined.

**Health & Human Services and Public Safety Committee
&
Economic Development Committee**

Tuesday, August 6, 2019, 5:30pm, Room 209, City Hall

Health & Human Services and Public Safety Committee Attendance:

Belinda Ray, Chair (District 1), Brian Batson (District 3), Pious Ali (At-Large)

Economic Development Committee Attendance:

Justin Costa, Chair (District 4), Spencer Thibodaux (District 2), Pious Ali (At-Large), Nicholas Mavodones (At-Large).

City Staff: Heather Brown, Assistant City Manager; Christine Grimando, Acting Planning Director; Jessica Hancombe, Licensing and Housing Safety Manager ; Anne Torregrossa, Associate Corporation Counsel ; Jim Sweatt, Interim Assistant Police Chief; Chris Goodall, Assistant Fire Chief, Kristen Dow, Health and Human Services Director; Adam Harr, Social Services Executive Assistant; Greg Mitchell, Economic Development Director; Kolawole Bankole, Public Health Administrator; Bridget Rauscher, Chronic Disease Prevention Program Coordinator; and Keri Ouellette, Permitting Intake and Review Manager.

Meeting called to order at approximately 5:40 PM.

AGENDA ITEM 1 – Announcements

Councilor Costa, Chair of the Economic Development Committee introduced the background of the joint meeting; it is an initial meeting and there will be no public hearing at this meeting. Councilor Ray, Chair of the Health and Human Services & Public Safety Committee explained there will be opportunity for public comment at future meetings: before leaving this committee level and again at the full City Council.

AGENDA ITEM 2 – Marijuana Business Licensing

Heather:

- Over a year ago the City created a staff working group with the following goals:
 - Create a working frame work
 - A program that can pay for itself
 - Works with industry and launch a novel program for Portland.
 - Health and safety focused that treats medical and recreational use similarly.

Anne Torregrossa:

- November Existing
 - State distinguishes medical vs adult/recreational use.
 - Dispensaries already exist for medical use

- Individually license care givers.
- Ordinance
 - Retail: both medical and adult use
- Adult use regulations in September from the State.
 - Depending on this process Portland may do the same.
- Adult use rules are comprehensive.
 - Medical rules are not as comprehensive and Anne expects the State will update these in the future.
- Portland's ordinance will be more robust due to the disparity between medical and adult use regulations from the state.
- Licenses
 - The limits are expected to be the biggest point of public contention (Cap on 20 Retail Licenses)
 - Give and take with Council feedback is expected.

Councilor Mavodones suggested a brief overview for people viewing the meeting.

Memo: Marijuana Business Licensing Overview

<https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=2913>

- License Types
 - Cultivation: 3 tiers based on size
 - Manufacturing
 - Manual (Low Hazard)
 - High Hazard
 - Retail
 - Medical
 - Adult Use/Recreational
 - Caregiver is limited to 5 patients a month; home operations are allowed.
 - Testing Facilities
- Allocation of retail licenses
 - 250ft buffer between business regardless of medical or retail/adult use (door to door along and across streets, similar to the business entertainment license)
- Cap on retail stores
 - Cap method: using the 250 ft buffer there could theoretically be 500 retail stores.
 - Staff was concerned that without a cap, the market would be flooded initially and then each year would steadily lose business.
 - 20 is a starting point.
- Possible allocation method for retail applicants
 - First come, first served
 - A professional proposal with the following conditions met:
 - <https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=2909>
 - Tentative approval to continue if these are met

- Staff also considering a weighted lottery where applications are based on qualifications the council decides on. An example:
<https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=2927>
 - Pure lottery (not recommended)
 - Purely merit based. It would require a committee to review and rate applications. (not recommended)
- Applications are currently reviewed at the staff level.
 - Allows nimbleness to seek expert help as needed.
 - Could be at planning board, council or other level.
 - Any site plan would go through planning board but some proposals may not require sight plans (such as small operations)
- Application Highlights
 - Community relations liaison required for to forward complaints.
 - Landlord permission
 - Some landlords have restrictions on financing property owners due to federal laws and banks not working with property owners in the industry.
 - Security Plan
 - Waste disposal plan
 - Odor mitigation plan
 - Operations/Business plans (much of this is required at the state level.)
 - Performance Guarantee: amount determined to responsibly wind down business.
 - Be able to not have excess product and materials in event of closure.
- Fee Schedule
 - Program to pay for itself, including staffing needs.
 - Numbers are designed to start the new program then continue it.
 - Made assumptions to numbers that can be adjusted
- Licensing qualifications largely track to the State's
- Disqualifying Factors (with time limits)
 - Land Use violations
 - Unpaid taxes
- Labeling requirements for adult use are comprehensive
 - Not so with medical:
 - If it has been tested, results must be labelled.
 - Untested product must be labeled as such
 - Both must be labelled it contains THC.
- Manufacturing and retail must be separate.
- Kitchens where marijuana products are made must be separate from facilities where non marijuana food products are made.
 - Expected conversation around requirements of shared kitchens
- Added sprinkling requirements
- Chapter 11 food licensing: added a special food license.
 - Currently license only at retail (not manufacturers)
 - Would add manufacturing.
- Insurance and indemnification

- Important due to the legality at the federal level.

Committee Questions:

- Going section by section.

Definitions

- Disqualifying Conviction
 - Should class A, B, or C, conviction be listed other than felony.
 - It is a long list.
 - Mirrors State language
 - Medical rules do not list convictions
 - Chair Ray was concerned about preventing someone from entering business who does not need to be but will research convictions herself

Enforcement

- History of law enforcement's disparate impact on people of color:
 - Councilor Ali asked if it is possible to incentivize business owners who have historically been aggrieved by disproportionate enforcement.
 - Marijuana convictions would not prohibit a license outside of trafficking violations
 - Out of state convictions will be reviewed using the Maine equivariant based on the crime itself.
 - The amounts other states would charge individuals for trafficking vary.
 - If a person has a felony trafficking conviction from another state that Maine would consider a misdemeanor possession, the applicant's conviction would be considered misdemeanor possession.

License Types

- Councilor Thibodeau asked about the five types of licenses
 - Cultivation is counted as a license in the memo.
- Tiers: How many plants can be cultivated in each tier
 - Staff will find the equivalents based on canopy area
- Shared Space: Are there other instances where communities have allowed for production of marijuana products and non-marijuana foods.
 - Staff are not aware of communities in or outside of Maine that have addresses this issue.
 - Staff to look for examples and how they may have mitigated concerns.
 - How could someone exercise control in a shared space such as at businesses like Fork Food Lab.
- 3 Cultivation tiers are based on plant canopy, but measured by how much square footage is measured
 - These match up with the state tiers (outside of an even larger tier at the State the Portland will de facto prohibit due to it being too large)
- Land use:
 - Due to setbacks and other zoning, the larger tiers may not be possible.

- This will be address in the licensing process.

Licensing Procedure

- The year to open the business is from the date of approval, not application.
 - It may take longer than a year if a building is being built.
 - This may be changed to include the ability of staff to extend the one year.
- If a license is granted, does an applicant have an ability to transfer it to someone else or another business.
 - Licenses are tied to the applicant and their business.
 - Licenses cannot be transferred.
 - A new owner would need to apply
 - The business must be closed during the new application process.
 - A 10% change in ownership is the threshold for a new application.
- Requirement for Owned/Operated Maine Businesses.
 - Councilor Batson is concerned out of state business interested would supplant local entrepreneurship.
 - In the rules:
 - Out of state individuals can form a Maine LLC.
 - Adult Use: State level already limits use: Must all be a natural person who is a resident of the state of Maine, A majority of the shares must be Maine Residence.
 - The State would check this.
 - Medical use: care giver licenses require Maine residency.

Background Checks

- Where are background check requirements indicated in City Code?
 - Chapter 35-17
 - Individuals would need to meet background check requirements.
 - LLC: managers, directors, officers and general partners.
 - Applicant has burden of proof; exactly the same language as alcohol.
 - At the State it is by certain positions and managers.

Performance Guarantee

- Open and broader than others
 - Surety bond
 - Letter of credit
 - Escrow account
 - Other evidence that the City finds acceptable.

Fees and Costs

- Cases in which the fee can be refunded:
 - Withdrawn application prior to granting of the license
 - Denied license
 - If notifies the City applicant is abandoning the city prior to opening.

- Why would the City refund the abandoned fee?
 - There are two fees, at application fee to cover most of application process and then licensing fee.
 - 1 and 2 make more sense to Chair ray as they are before the license has been granted; why refund a license that has been granted?
- Councilor Costa asked about the actual cost do know the fees are actually covering the cost. He is concerned of future increases and would prefer getting them right at the start.
 - These are based on assumptions that will change thought he planning process, but the fees are designed to start up a program.
 - Feedback from the community and changes to the ordinance will influence the final fees.

Limitations on Production and Manufacturing of Food Products.

- A separate kitchen may be onerous to bakeries and other businesses.
 - Businesses already must mitigate against cross contamination with allergens; are there ways to mitigate against contamination that do not require a separate kitchen.
 - Safety Plans
 - Quality Control Plans
 - Other options require much more staff time when separate facilities or equipment
 - Councilor Costa asked if disposal requirements could mitigate.
 - Shared spaces would be difficult, would people who work after a marijuana producer know or be able to mitigate
 - Chair Ray is interested in alternative to the separate kitchen requirement.

Additional Retail Store Requirements

- Business Cap
 - Councilor Batson asked about communities that have had retail spaces for a longer period of time.
 - Staff were concerned of economic drivers: what cab a population the size of Portland sustain?
 - Concentration
 - Tourism
 - Compared with Boston;
 - Boston's cap would overwhelm the market; staff want to avoid a crash.
 - Councilor Batson requested research on outcomes and what existed in those communities' regulations.
 - Lack of distance restrictions led to concentrations in Albuquerque created a marijuana district.
 - Staff will research other communities.
 - Councilor Batson is not sure about a cap due to other limiting requirements.
 - He further is struggling to reconcile the disparity with alcohol which does not have a cap (outside of agency liquor store)

- Anne cautioned analogizing it to alcohol as it is a new industry and agency liquor stores are retail spaces and acknowledged the current cap may not be reached due to other regulations.
 - Councilor Thibodeau referenced Air BnB Regulations and would like to start small and evaluate annually then adding more licenses as part of a growth plan.
- Councilor Thibodeau has some concern on residency and Minority Owned Businesses but is most concerned by the weighted lottery and likes the first come first served basis while at the same time wanting those first served are fully qualified.
 - He is skeptical about the point system
 - If no cap thinks the language has quality control. Anne extrapolated that minimum qualification across the board could insure this.
 - He would like additional information and diversity in the businesses granted licenses
 - The one year time period is designed for new businesses who may need more time to launch.
- Other caps dictated by ordinance:
 - Short term rentals.
 - Taxes (Anne will find out more)
 - Entertainment is not capped but limited by distance.
- Councilor Mavodones: over time the market will dictate success
 - This has mitigated having too many formula businesses in the past
 - Can the market performance dictate an effective cap?
 - He is concerned with any number of cap
 - How do applications submitted at once be ranked?
 - Chronologically at submitting down to the time of day (Process for short term rentals)
- Councilor Costa asked if there is a public health concern were the number of retailers not capped; is there a public health component or just an economic development concern.
 - HHS was not part of the planning process and will research the public health considerations.
 - A flooded market place where businesses fail would likely see the smaller businesses fail first; a cap could help this.

Zoning

- Councilor Ali asked if due to school zones and other rules, will there effectively be a concentration like the concentration of bars in the old port?
 - Maps show that retail areas are allowed in multiple areas: old port and bayside up the B zones to through Forest Ave (dark green on Map)
 - Manufacturing zones are marked by leaf symbols.
 - From a business perspective there is nothing to preventing a concentration in the old port outside of the 250 ft requirement.

Cap

- Councilor Thibodeau asked Economic Development on Industrial spaces
 - Rents: there is about a 1% vacancy of industrial space.
 - What are the vacancy rates downtown?

Additional Retail Spaces

- Chair Ray is still interested in allowing the sale of non-marijuana consumables and marijuana consumable in the same space.
 - Originally the prohibition was on any non-marijuana consumables.
 - Industry input led to no on-site consumption.
 - Enforcement was the true issue as one cannot tell if a brownie has THC in it or not.
 - Take out service without seating would be allowed.
 - Chair Ray is not sure if she is satisfied with the compromise.
 - Other uses prohibited
 - Staff were mainly concerned about entertainment
 - One must be a retail store or not (cannot be one type of business with a small addition marijuana retail)
 - Leaflet to mitigate overdoses and that marijuana products have doses within a product that are different than the servings of a product.
 - Compromise with the medical/retail labeling and prohibition on public consumption.
 - Could this be accomplished with a sign or optional leaflet
 - The requirement could lead to litter.
 - Public health can help with the health warning in the leaflet.
 - Councilor Costa asked about general warnings and labels like alcohol content with liquor; there is no standard equivalent.
 - Councilor Batson is concerned about the word choice “overdose” and suggested overconsumption may be more appropriate.
 - Over consumption is not lethal like an overdose
 - Are there retail stores operating in the City
 - Yes
 - Will these stores be grandfathered
 - No

Signage

- Chair Ray asked why a marijuana leaf plant cannot be on a sign?

Cultivation

- Outdoor growing is prohibited for everyone?
 - Just for business use in this ordinance.
 - Personal use is not addressed in this ordinance

Councilor Costa asked about the process going forward

- Split between HHS&PS focusing on public health and Economic Development

- Meet and find a reasonable division between questions?
 - Continue joint meetings?
- Councilor Batson would like to delay deciding now.
- Councilor Mavodones agreed as he is wary of splitting and duplicating work and preferred to do it together.
- Councilor Thibodeau is amenable to staying in joint meetings, if the group decided to split, we would want to decide when that division of questions would be discussed.
- Chair Ray asked about the timeline.
 - The state timeline is in the Fall but may take longer. (State's take effect in September and likely working in October/November)
 - Staff is able to work as long as needed.
- Chair Costa agreed to stay operating jointly and prioritize public health considerations and flagging things people will want to talk about especially with the cap.
 - Uncharted territory and would like easy to understand language
 - Consider the lower level resources of local businesses.
 - Reflect in specific numbers.
 - When internal next steps are communicated, future planning will be announce.
- Chair Ray confirmed staff know what is asked of them and would like to see the local and minority owned business considerations in the weighting in other communities, and further examples of weighting.
- Councilor Mavodones is expecting aggrieved applicants (cap vs. no cap) and what potential litigation and responses exist in the ordinance as it stands.
- Chair Ray asked about the placeholders.
 - A redline of those chapters can be provided the next meeting, but what is currently outlined is the major content of the ordinance.
 - Not needed for the next meeting.
- Taxes: so far there is no benefit from state taxes to the City.

The meeting adjourned at approximately 7:20 PM.

MEMORANDUM

TO: Health and Human Services and Public Safety Committee; Economic Development Committee
CC: Greg Mitchell; Kristen Dow
FROM: Staff working group
DATE: November 20, 2019
RE: Marijuana Business Licensing Update

INTRODUCTION

At the last Committee meeting on August 6, 2019, the Staff Working Group presented an initial draft of a proposed new ordinance regulating marijuana businesses. The Committee had questions and feedback on that draft, which the Working Group has worked diligently to investigate and address. Staff has also taken a significant amount of feedback from members of the industry, which staff has also considered and addressed, where appropriate. Based on all of that, the Staff Working Group has proposed several changes to the ordinance and a new version of the ordinance is in your packets.

This memo addresses the following topics:

1. Method of allocating retail licenses
2. 20 store cap on retail licenses
3. Prohibition on processing marijuana and non-marijuana products in the same facility
4. On-premises consumption of non-marijuana food products
5. Consumer education requirements
6. Number of plants per cultivation tier
7. Including dispensaries
8. Landlord permission
9. Testing facility ISO accreditation
10. Security Requirements
11. Fee Schedule
12. Changes to other Code chapters

ANALYSIS

1. Method of Allocating Retail Licenses - Weighted Lottery

In the initial draft of the ordinance, staff proposed allocating the limited number of retail licenses on a first-come-first-served basis. The Committee had significant questions and concerns about this method, as did members of the industry. In response, the Staff Working Group has rewritten the ordinance to reflect a “weighted lottery” system. The new proposal gives the City Manager the discretion to create different rounds of licensing for retail stores. For each round, the City Manager would determine an opening date for applications, a closing date, and the number of licenses to be allocated during that round. Upon submission of an application for a particular

round of licensing, staff would review the application for completeness and allow the applicant one week to cure any deficiencies. After the application period closed, all complete applications would be scored based on the following matrix:

At least 51% owned by socially disadvantaged individual(s), as defined by the Small Business Association regulations; women; veterans; and/or individuals who immigrated to the United States within the previous ten years.	+1
At least 51% owned by individual(s) who have been a Maine resident for at least five years.	+1
Owned by individual(s) with experience running a licensed marijuana retail store or dispensary in Maine or another state with no history of violations or license suspensions or revocations	+1
Applicant has previously been licensed by the State of Maine or the City for non-marijuana related business, with no history of violations or license suspensions or revocations for a minimum of 5 years	+1
Ownership or leasehold interest in proposed retail location by applicant for a minimum of 2 years	+1
Location greater than 500 feet from school property	+1 per additional 1,000 ft.
Business plan committing to annually contribute 1% net profits as a restricted donation to the City for youth education on substance use education and prevention	+1
Business plan committing to sell only marijuana products, CBD, and related paraphernalia	+1
Evidence of at least \$150,000 in liquid assets	+1

Licenses for that round would be awarded based on the number of points, and the applicants with the highest score would receive the first license. Licenses would continue to be awarded in order of next highest score, so long as the applicant can also meet the 250' buffer requirement between retail stores, and all other ordinance requirements. If any applicants have a tie score and there are not enough licenses or the applicants are within 250' of each other, the license(s) would be awarded based on a lottery.

2. Cap on Number of Retail Stores

The Committee expressed concerns about the 20 retail store limit. Staff did consider the feedback and questions, and still stands by its recommendation of a 20 store cap as the most prudent way to implement not only a new ordinance, but also a completely new industry in the City. This memo does provide context with respect to other jurisdictions that have capped the number of marijuana retail stores, and also experiences of other jurisdictions with respect to their caps. Please also see the attached memo from the HHS Department addressing this issue.

Caps are not new to the City of Portland, and the Council has used them in other contexts. For example, the City currently limits the number of non-owner occupied short term rental units to 400 to avoid adverse impacts on neighborhoods and ensure that the City retains a strong residential population. The Jetport limits the number of Jetport Taxi licenses to 42 to avoid oversaturation and unhealthy competition.

Additionally, the number of agency liquor stores in the City are limited by the Bureau of Alcoholic Beverages. That limitation is based on population and Portland is limited to 11. Those limits are also in place to manage the impact on the community.

To provide context for the cap recommended by staff, a sampling of caps implemented in other cities and towns across the country is provided below, in addition to the population in those jurisdictions, and how that cap translates to the number of retail stores per 1,000 population.

Municipality	Number of Stores	Population (2017 est.)	Stores per 1,000 Population
Lowell, Massachusetts	5	111,346	0.04
Kennewick, Washington	4	81,607	0.05
Fort Collins, Colorado	9	165,080	0.05
Seattle, Washington	42	724,245	0.06
Tacoma, Washington	16	213,418	0.07
Worcester, Massachusetts	15	185,667	0.08
Salem, Massachusetts	5	43,411	0.12
Pacifica, California	6	39,087	0.15
Pullman, Washington	5	33,354	0.15
Fitchburg, Massachusetts	7	40,793	0.17
Lansing, Michigan	25	116,986	0.21
Grover Beach, California	4	13,628	0.29

Portland, Maine	20	66,882	0.30
Denver, Colorado	226	705,439	0.32
W. Hollywood, California	16	37,080	0.43
Fairbanks, Alaska	25	31,664	0.79
Pittsfield, Massachusetts	35	42,591	0.82
Hallowell, Maine	2	2,365	0.85
Farmington, Maine	7 (4 adult use)	7,633	0.92 (0.52 adult use)
Poland, Maine	10	5,590	1.79

Although many jurisdictions have not explicitly stated the reasoning for their chosen caps, there are a few exceptions:

Massachusetts - Some Massachusetts jurisdictions have adopted their cap relative to the number of liquor store licenses, setting it specifically at 20% of the number of liquor stores.

Washington - The State of Washington had originally allocated the number of retail licenses in each larger municipality, with an additional amount allowed for the remaining towns in a given county. After a study in 2015 of the estimated distribution of the marijuana market, the state adjusted its caps upwards to the current standards.

Denver, Colorado - Denver originally had no caps on stores when its adult-use industry became legal in 2014. By the end of 2015, however, Denver identified the proliferation of marijuana stores, particularly in more economically disadvantaged neighborhoods, as a concern, along with significant neighborhood complaints. In 2016, the Denver City Council voted to adopt caps on both growing operations and retail stores.

Fort Collins, Colorado - To determine the cap on medical retailers, Fort Collins determined their cap relative to the number of medical patients. Their cap is set at one retail store for every 500 medical patients, for a current total of nine licenses (not including existing stores at the time of legislation). Only medical licensees are allowed to convert to adult use licensees.

Additionally, Oregon recently passed legislation to limit its production, after a study found that supply significantly outstripped demand in the previously un-capped market.

Staff is also proposing to add in “grandfathering” language for medical retail stores or dispensaries that are currently operating in the City, so long as they do not apply to change to an adult use facility. This provision is limited to only those locations with an approved change of use

permit or site plan approval. Building permits, certificates of occupancy, or other types of permits or approvals will not be sufficient to grandfather in a store. As written, this provision may have the effect of slightly increasing the total number of retail stores and/or dispensaries operating in the City above the proposed 20.

3. Separating manufacturing

One question that arose was about the required separation for facilities manufacturing both marijuana products and non-marijuana products; the example given was a bakery that wants to produce both types of baked goods. Currently, any adult use marijuana manufacturing facility is already prohibited from manufacturing non-marijuana products by the state. Keeping this requirement in the proposed ordinance would even the field for medical and adult use manufacturing, and make the same rules apply.

Additionally, this prohibition on using the same space for manufacturing marijuana and non-marijuana products is fairly consistent across other jurisdictions that have legalized adult use marijuana.

4. On-premises consumption of food items

During the zoning process, staff had proposed an absolute prohibition on marijuana retail stores (recreational or medical) selling non-marijuana food products. Staff's concerns were two-fold. First, it would be nearly impossible to enforce the prohibition against on-premises and/or public consumption. Once removed from its packaging, it would be impossible for enforcement staff to determine whether a product being consumed contained marijuana. Additionally, the selling of both products could lead to consumer confusion between the marijuana and non-marijuana products.

The Council was uncomfortable with the absolute prohibition on sales of non-marijuana food products, so staff revised its position, with input from the industry. The current proposal is that marijuana and non-marijuana products can both be sold, but neither can be consumed on-premises. For example, a retail store can sell both marijuana and non-marijuana products, but cannot have any bar stools, tables, or other eating areas, and all products must be packaged to go. Again, this is intended to avoid the situation where an inspector walks into a store, observes an individual consuming product, but cannot determine whether or not that product contains marijuana. Perhaps even more importantly, allowing on-premises consumption of non-marijuana products is more likely to encourage on-premises consumption of marijuana products, because people will be encouraged to linger at the retail store, rather than take their purchases and go home to consume.

If the Council chooses to remove this ban against on-premises consumption of any products, it will be practically impossible for staff to enforce the prohibition against on-premises consumption of marijuana products. On-premises consumption of marijuana products is

prohibited at the state level, and also carries an increased risk of public and health risks, as outlined in the memo from the HHS Department.

For context, many other jurisdictions prohibit the sale of non-marijuana goods altogether, including California (may only sell cannabis accessories and branded merchandise), Canada (accessories only), Colorado (no non-marijuana consumable products), Nevada (paraphernalia, accessories, and CBD and hemp products), and Washington (paraphernalia only).

5. Educational requirements

The first draft of the proposed ordinance required retail businesses to provide certain information to consumers at the point of sale in a flyer or other handout. The revised version updates those requirements; allows the notifications to be placed on a sticker instead of a flyer; and provides that the City's HHS Department will draft the required language. The updated ordinance also requires a sign at the point of sale also notifying purchasers of certain resources and risks of consumption. The HHS Department has provided draft educational documents that have been included.

Finally, staff is proposing to add a required class on responsible selling for all retail and dispensary front line staff . This is similar to training already required for sales of alcohol. HHS would charge separately for this class, with the goal to cover the costs of providing the class.

6. Plants per cultivation tier

The Committee posed the question of how many plants would each tier of cultivation - which is based on plant canopy and not number of plants - allow. The number of plants depends largely on the growing strategy of the cultivator. However, each tier would allow the following ranges of plants:

- Tier 1 (500 sq. ft.): 83 - 500 plants
- Tier 2 (2,000 sq. ft.): 333 - 2,000 plants
- Tier 3 (7,000 sq. ft.): 1167 - 7,000 plants

7. Dispensaries

Although the original draft of the ordinance applied to dispensaries by nature of the definitions, it was not explicit and left many issues unclear. The revised ordinance makes it clear that dispensaries will also be subject to the same regulations as other retail stores. The proposed fee for dispensaries will be identical to that for medical retail stores.

8. Landlord permission

The ordinance originally stated that applicants would need to submit notarized, written permission from the landlord. Staff has added an alternative to that requirements, allowing an

applicant to provide a copy of a fully executed lease agreement that specifically states the space may be used as a marijuana business.

9. Testing accreditation

Staff removed the requirement that testing facilities provide proof of accreditation at the time of application. Testing facilities will likely not be able to get accreditation before opening, the state gives facilities one year to provide proof of accreditation, and the state will also be confirming accreditation. Staff felt that requirement could be removed from the local ordinance, as it would be duplicative.

10. Security Requirements

In response to questions from the industry, the most recent version of the ordinance provides updated security requirements. The relevant changes include:

- Removing the requirement that small scale caregivers utilize the same safes as required for larger operations;
- Adding the requirement that cash be kept in a drop box safe;
- Clarifying the type of safes to be used;
- Modifying the mobile security requirements; and
- Requiring that a burglar alarm be connected to an AES box, which will sound directly at dispatch.

11. Fee Schedule

The fee schedule proposed by the staff working group last meeting has remained the same, with the exception of the addition of dispensaries which will be subject to the same fees as medical retail stores. The fees are based on the anticipated cost of implementing and maintaining this program, as well as estimates of the number of licenses. Given that this is an entirely new industry, the anticipated number of licenses in each category is simply an estimate.

To manage this new industry properly, the plan is to add several positions with specialty training in the various departments that will be responsible for licensing and monitoring the new businesses. The new staff will take on the significant burden of reviewing applications, inspecting new facilities, responding to complaints, and conducting multiple inspections annually for at least the first few years. Proposed staff will include an additional Health Inspector, Licensing and Registration Assistant and Code Enforcement Officer/Life Safety Plan Reviewer, which we anticipate will be dedicated nearly full time to marijuana licensing, inspections, and enforcement for at least the first several years. Those salaries will account for \$208,707 of the anticipated costs of the program.

In addition, the City will add another police sergeant, whose time will be dedicated approximately 50% to the marijuana licensing program for a cost of \$51,760. Public Works and Corporation Counsel's Office are planning to absorb the additional work into their departments without adding staff. The DPW costs of reviewing applications and inspections for solid waste

and wastewater are estimated at \$10,060 (10% of a coordinator's time), while the value of Corporation Counsel's Office is estimated at \$22,650 (15% of an attorney's time) (which will significantly increase with any litigation over licensing decisions).

We have estimated the number of licenses that will be applied for in each category below along with the proposed fee. The number will most likely fluctuate year to year as the market settles.

License Type	Annual Fee	Estimated #	Annual Estimated Receipts
Cultivation – Tier 1	\$500	30	\$15,000
Cultivation – Tier 2	\$5,000	3	\$15,000
Cultivation – Tier 3	\$7,500	7	\$52,500
Dispensary	\$5,000	1	\$5,000
Manufacturing – manual processing only	\$2,500	5	\$12,500
Manufacturing – high hazard processing	\$5,000	5	\$25,000
Retail – medical marijuana	\$5,000	5	\$25,000
Retail – adult use	\$10,000	15	\$150,000
Small scale caregiver	\$250	125	\$31,250
Testing	\$1,000	3	\$3,000
TOTAL			\$319,750
Estimated annual costs			\$319,057

12. Changes to other Code provisions

In addition to the changes to Chapter 35 that are in front of the Committee, staff also proposes making changes to the following Chapters:

- **Chapter 2.5** - To allow certain types of burglar alarms to ring directly through to dispatch, certain provisions of Chapter 2.5 will need to be changed:

Sec. 2.5-19. Direct connections to police department.

Except as otherwise specifically provided in this code, no~~No~~ alarm user shall maintain any direct connection from an alarm system to the communication center of the police department.

Sec. 2.5-20. Automatic dialing devices.

Any alarm system may be connected to any central station by an automatic dialing device, but no such device shall connect any alarm system to the communication center of the police department, except as otherwise specifically provided in this code.

- **Chapter 10** - Staff is recommending an amendment to Chapter 10 to require that all manufacturing facilities be sprinkled, other than those using only CO₂ and nonhazardous extraction processes.

Section 38.3.1 shall be added as follows:

For other than CO₂ and nonhazardous extraction process, any facility conducting marijuana extraction shall be protected throughout with a NFPA 13 sprinkler system.

- **Chapter 11** - Staff is recommending adding an additional class of food license solely for manufacturing marijuana.
- **Chapter 15** - Amendments to Chapter 15 will incorporate the final licensing fees, as well as the application fees. Initial application for all license classes other than small scale caregivers are proposed to be \$500 and renewal application fees are proposed to be \$100. Small scale caregiver application fees will be commensurate with existing application fees of \$45 for initial and \$35 for renewal.



Health & Human Services Department
Kristen Dow, Director

MEMORANDUM

**TO: Health and Human Services & Public Safety (HHS& PS) and
Economic Development Committees**

FROM: Kristen Dow, Director, Health & Human Services Department

DATE: August 27, 2019

**SUBJECT: Staff Response to Questions Raised at August 6, 2019 Joint
Committee Meeting**

Introduction

The information contained in this memo is in response to questions raised by the joint HHS&PS and Economic Development committee members during the meeting on August 6, 2019, regarding the Public Health Division's input on the Draft Retail Marijuana Ordinance.

1) What are the public health implications as they relate to imposing a cap on the number of retail licenses available in Portland?

Imposing a cap on retail marijuana licensing will support efforts to protect the public from health or social harms. Initiating the proposed cap of 20 licenses, as a precautionary measure, will help to protect our vulnerable populations (i.e. protect youth from the advertising and increased access) and will allow for effective implementation of the rules and regulations.

As a Schedule 1 drug, (Schedule 1 drugs are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence)⁴ the U.S. Food and Drug Administration provides few testing or regulatory oversight functions of marijuana plants or products, unlike for tobacco and alcohol products. Implementation of regulatory oversight can take significant time and financial resources.¹

Precautionarily, a limited number of retail licenses, or a phased-in approach could:

- Slow down the commercialization of the product, limit youth access, and protect against high-potency products linked with a higher frequency of psychoses and dependency
- Ensure a strong monitoring and surveillance system to track the impact of adult-use marijuana legalization on health, public safety, and social conditions
- Ensure a high-quality regulatory scheme is put in place that carefully considers potential health and social impacts, streamlines processes across agencies, and considers approaches to mitigating the long-term costs of regulating marijuana in Maine in the absence of Federal Drug Administration regulations

Research in states including Colorado and Illinois supports local-level caps in the interest of protecting public health.^{1,2}

An article from the Journal of the American Medical Association lists additional unexpected health effects of marijuana in Colorado, including: cyclic vomiting syndrome with severe abdominal pain, vomiting, and diaphoresis, as well as unintentional marijuana ingestion by children.³

Marijuana edibles have presented challenges, as edibles have been the leading cause of health care visits due to marijuana intoxication by people of all ages. This is likely due to the misunderstanding by adults of the delayed effects of ingestion compared to inhalation. While smoking marijuana results in clinical effects within ten minutes, oral tetrahydrocannabinol (THC), one of at least 113 cannabinoids identified in cannabis and the principal psychoactive constituent of cannabis, does not reach significant blood concentration until at least thirty minutes and peaks at approximately three hours. While 10-30mg of THC is recommended for intoxication, edibles such as “cookies,” “brownies,” or “gummy bear” packages often contain approximately 100mg, resulting in unintentional overconsumption.

2) What information does the City propose to include in the educational materials provided to customers?

The Public Health Division’s Substance Use Prevention Program is responsible for youth and young adult substance use prevention throughout the City of Portland. The program’s content experts propose implementing a framework similar to evidence-based alcohol and tobacco prevention strategies. These strategies, selected for their proven impact on reducing youth access and supporting positive role model behavior, include:

- Required retailer education (and encouraged adjacent non-retailers) - educating retailers of regulations and how to communicate with customers about the product(s), as well as technical assistance on pricing and promotion strategies.
- Accidental ingestion and safe storage education – the Substance Use Prevention Program offers a lock-box loan program and will provide tips for parents to keep their children safe around marijuana, including how to respond in an emergency. This is particularly important, with respect to the 160% increase in calls about children to the Northern New England Poison Control Center since the legalization of recreational marijuana in 2016.⁵
- Brain development education – while marijuana is legal to purchase at the age of 21, a young person’s brain is not fully developed until about age 25. Early initiation of marijuana use can have lasting consequences.⁶
- Risks of overconsumption – individuals of all ages can overconsume marijuana and it is important for people to have a firm understanding of marijuana dosing. Additionally, there are steps that can reduce overconsumption, such as labeling requirements and potency caps.

In addition to health-related education, we are proposing a public education campaign for new Mainers who do not have citizenship and the legal and immigration implications for individuals of any age.

Sources

- 1) *Protecting Public Health and Promoting Equity in Adult Use Marijuana Legalization in Illinois: Recommendations for Policy Makers*. Illinois Public Health Institute. November, 2018 http://iphionline.org/wp-content/uploads/2018/12/Public-Health-Equity-Framework-Paper-FINAL_formatted.pdf
- 2) *Colorado Retail Marijuana: Education & Prevention Resource Guide*. Colorado Department of Public Health & Environment. https://www.colorado.gov/pacific/sites/default/files/MJ_RMEP_Resource-Guide.pdf
- 3) *The Implications of Marijuana Legalization in Colorado*. Journal of the American Medical Association. January, 2015. <https://jamanetwork.com/journals/jama/article-abstract/2022370>
- 4) *Understanding Drug Schedules*. healthychildren.org. 2019. <https://www.healthychildren.org/English/ages-stages/teen/substance-abuse/Pages/Controlled-Substances-Not-Just-Street-Drugs.aspx>
- 5) *Poison Control Calls for Kids up 160% Since Recreational Marijuana Legalization*. WGME. August, 2019. https://wgme.com/news/marijuana-in-maine/poison-control-calls-up-160-since-recreational-marijuana-legalization?fbclid=IwAR0TpIwwK7oOhMeUledN7iR-e-rZKW3_8vQPBohr2KVLTVYfwbl0QsuUVDk
- 6) *Brain Development, Teen Behavior and Preventing Drug Use*. Partnership for Drug-Free Kids. <https://drugfree.org/article/brain-development-teen-behavior/>

389 Congress Street • Portland, Maine 04101 • 207-874-
8300 info@portlandmaine.gov •
www.portlandmaine.gov



The Teenage Brain:

Your teen may not make sense to you, but their brain can! Understand the impact of alcohol and drugs during this critical time of brain development.

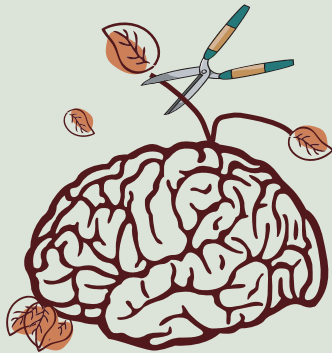
Who is this child?

She won't talk to you but spends hours on the phone talking with her friends. He acts like a grown-up one minute and like a kid the next. She always seems to have a different opinion than you and needs to express it.

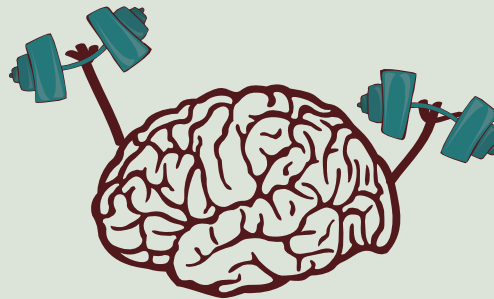
Sound familiar? You must be the parent of a teenager!

What is really going on?

During young adulthood, the brain goes through a wave of major development. In fact, studies show that the brain isn't fully developed until well into early adulthood.¹



Pruning: The brain cells and neural connections that are used the least **get pruned away and die off.**²



Strengthening: The brain cells and neural connections that are used the most **get stronger.**²

The more time a teen spends learning music or mastering a sport, the stronger those brain connections become. The same is true for the connections used for watching TV or playing video games.

Why does he act that way? What was she thinking?

The development of the teen brain has a lot to do with it! Based on the stage of their brain development, young people are more likely to act on impulse and are less likely to stop and consider the potential consequences of their actions, even if these behaviors can be dangerous.¹

Frontal Cortex: This is the area of the brain that controls reasoning and helps us think before we act. It is still changing and developing well into early adulthood.¹



Hormones: During puberty, hormones associated with risk taking and sensation seeking are surging when the brain's ability to understand consequences and make decisions is not fully developed.³

Amygdala: This region of the brain is responsible for instinctual reactions such as fear and aggressive behavior. This region develops early.¹

Add drugs and alcohol to the mix?

The combination of “raging hormones” and an immature brain explain why teens are vulnerable to experimenting with alcohol, tobacco, and other drugs. These substances can have a long term impact on brain functions.³



Alcohol

- Youth who begin drinking before age 15 are 4 times more likely to become alcohol dependent.⁴
- Alcohol tricks the brain’s pleasure reward system, strengthening neural pathways that are based on a harmful chemical instead of real life experience.³
- Alcohol suppresses the brain’s frontal lobe, leading to poor decision-making and risky behavior.⁵
- Heavy, on going use of alcohol can have a long term impact on brain functions such as learning, memory, and the ability to understand consequences.⁶

Prescription Medications

- Prescription medications are prescribed by a medical professional. Some of these may affect the brain, especially those used to treat pain or mental health disorders.⁷
- Commonly misused prescription medications include prescription stimulants, anxiety medications, sleep disorder medications, and prescription painkillers.⁷
- Prescription painkillers reduce pain, bind to opioid receptors in the brain, and may lead to a physical dependence and misuse.⁷



Marijuana

- 1 out of 6 people who start using marijuana as a teen become dependent.⁸
- Long time marijuana users report poor mental and physical health and a lower quality of life.⁹
- Students who smoke marijuana tend to get lower grades and are more likely to drop out of high school.⁹
- A recent study found that adults who began habitually smoking marijuana before age 18 showed an eight-point drop in IQ, which is a considerable decline.⁸

What Can I Do?

Remember That:

Teenagers are energetic, thoughtful, and idealistic, with a deep interest in what’s fair and right.

Although the adult brain is much different than the adolescent brain, adolescents can make good decisions and differentiate between right and wrong. Just remember, they may have a harder time making good decisions in high pressure social situations. This doesn’t mean that they shouldn’t be held responsible for their actions.

Set Limits and Stay Connected:

Know the facts.

Set clear rules around underage drinking and drug use and stick to them.

Know your child’s friends and the parents of your child’s friends.

Trust, but verify – check in with other parents about your teen’s activities or drop by once in a while where your teen tells you they will be.

1: Facts for Families. American Academy of Child and Adolescent Psychiatry. December 2011. 2: Research Facts and Findings. Adolescent Brain Development. Collaboration of Cornell University, University of Rochester and NYS Center for School Safety. May 2002. 3: The Adolescent Brain and Substance Use, Getting Results Fact Sheet. California Department of Education. 2009. 4: Underage Drinking Costs. Underage Drinking Enforcement Training Center. www.udetc.org/UnderageDrinkingCosts.asp 5: Too Smart To Start. Alcohol and the Developing Brain. SAMHSA 6: Tapert et. al. Alcohol and the Adolescent Brain. National Institute on Alcohol Abuse and Alcoholism. 7: Mind Over Matter: Prescription Drugs. National Institute on Drug Abuse. National Institutes of Health, U.S. Department of Health and Human Services. <https://teens.drugabuse.gov/teachers/mind-over-matter/prescription-drugs>. 2009. 8: The TEDS Report. Marijuana Admissions to Substance Abuse Treatment 18 to 30: Early vs. Adult Initiation. Substance Abuse and Mental Health Services Administration. 9: Marijuana Facts for Teens National Institute on Drug Abuse. National Institutes of Health. 2017.

**For more information, please contact: Portland Public Health's
Substance Use Prevention Program: jdosseva@portlandmaine.gov**

Adapted from materials created by the Public Health Program of the Opportunity Alliance



PORTLAND PUBLIC HEALTH

Safety Considerations for Marijuana Use

②1 Marijuana consumption is prohibited to anyone under 21 years old.



THC is the chemical in marijuana that makes a person feel high.

Start low: a single serving of 5 mg THC or even less.



Go slow: marijuana products may take between 2—4 hours after consuming to take full effect.



First time using: be cautious as eating too much of a marijuana edible may lead to unwanted effects.



Driving high may result in a DUI. Laws prohibit driving under the influence of marijuana.



Public Health
Portland Public Health Division
Office of Prevention, Control, and Behavior Change

PORTLAND PUBLIC HEALTH

Safety Considerations for Marijuana Use



Using marijuana while pregnant or breastfeeding may be harmful to your baby.



Store marijuana and marijuana products safely. Lock them up, out of reach from children and pets.



If you've consumed too much, or suspect a child or pet has accidentally consumed marijuana, call for help. Call the **Poison Control Hotline** at **1-800-222-1222** for free, quick, and expert help.

For more information contact Janet Dosseva
at jdosseva@portlandmaine.gov.





WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CALL POISON CONTROL (1-800-222-1222) IF YOU SUSPECT A CHILD OR PET HAS CONSUMED A CANNABIS PRODUCT.

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. Disqualifying violations shall not include parking tickets.

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 include registered dispensaries, but 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.

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, except that an individual or entity may not hold more than one retail and/or dispensary license, or have an interest in an entity that holds more than one retail and/or dispensary license, until after January 1, 2025.

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 more than 2,000 sq. ft. of marijuana plant canopy, and to sell harvested, unprocessed marijuana, marijuana plants, or seedlings at wholesale.
- d. Dispensary. A dispensary license shall allow a registered dispensary to sell marijuana in accordance with Title 22, Chapter 558-C of the Maine Revised Statute.
- e. Manufacturing – Manual. A manual manufacturing license shall allow the license holder to manufacture marijuana using manual processing only.
- f. 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.
- g. 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.
- h. 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.

- i. 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.
- j. 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.
- b. Review and recommendation by City departments. The following City departments shall review all applications and recommend 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, 10, and 15 of this Code, as applicable, and all other matters within its purview.
 - 2. The Police Department shall review the security plans submitted by each applicant, as well as 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 considered as follows:
1. The City Manager may establish multiple rounds of licensing as necessary to manage the workload of staff necessary to license all prospective retail stores, and the anticipated market demand.
 2. The City Manager shall establish an opening date and a closing date for applications for any given round of licensing.
 3. Upon submission of an application for a given round of licensing, the City will perform a completeness review and establish that the applicant has a complete application and meets the minimum qualifications.
 - i. If the application is complete and the applicant meets the minimum qualifications, the City will assign the application a numerical score based on the criteria outlined in subsection (f)(4) below.
 - ii. If the application is incomplete, the applicant will be notified of the incompleteness and given one week to correct any incompleteness. If the application is still incomplete after that time, the City will reject the application. The applicant may reapply, but any second or subsequent application will be treated as a new application.
 4. Each application shall be awarded points based on the following matrix. Except where otherwise stated, a particular qualification must be held by at least 26% of the individuals owning the entity to qualify for any points.

At least 51% owned by socially disadvantaged individual(s), as defined by the Small Business Association regulations; women; veterans; and/or individuals who immigrated to the United States within the previous ten years.	+1
At least 51% owned by individual(s) who have been a Maine resident for at least five years.	+1
At least 25% owned by individual(s) with experience running a licensed marijuana retail store or dispensary in Maine or another state with no history of violations or license suspensions or revocations	+1
Applicant has previously been licensed by the State of Maine or the City for non-marijuana related business, with no history of	+1

violations or license suspensions or revocations for a minimum of 5 years	
Ownership or leasehold interest in proposed retail location by applicant for a minimum of 2 years	+1
Location greater than 500 feet from school property	+1 per additional 1,000 ft.
Business plan committing to annually contribute 1% net profits as a restricted donation to the City for youth education on substance use education and prevention	+1
Business plan committing to sell only marijuana products, CBD, and related paraphernalia	+1
Evidence of at least \$150,000 in liquid assets	+1

5. Applicants with the highest point totals shall be chosen first for tentative approval for a license.

Where two or more applicants have the same number of points, some or all of the applicants cannot be awarded tentative approval due to either the 250' dispersal requirement, the cap imposed by Sec. 35-42, or other limitations in this ordinance, tentative approval will be awarded, as between those two or more applicants, based on a lottery.

6. If the application is tentatively approved, the applicant will have one year from tentative approval 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 tentative approval. The applicant may reapply, but any second or subsequent application will be treated as a new application.
7. Any applicant with a complete application, but who is not awarded tentative approval, may choose to be placed on a wait list for a period of up to one year.
8. 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 licensee may reapply, but any second or subsequent application will be treated as a new application.
9. Except for licenses issued pursuant to Sec. 35-42(i)(1), 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 individual or corporate owner, 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, or a copy of a fully executed lease agreement specifically allowing the use of the leased space to be used as they type of marijuana business applied for.
- 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. Except

that, for retail stores subject to the allocation provisions of Sec. 35-13(f), the applicant need not provide evidence

- 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 City may require any reasonable modifications to the security plan that it deems necessary to prevent diversion and protect the public safety.
 - 3. A copy of the approved security plan shall be maintained at the licensee'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 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, and all waste disposal requirements otherwise included in this Code, including, but not limited to, Chapters 24 and 32.
 - 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 licensee'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 licensee'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 35-27.
- 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 in the amount of 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 of the marijuana business in a manner 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 licensing 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 any 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 to the satisfaction of the City;
 - 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 after the resolution of the condition that formed the grounds for suspension. Any second and subsequent suspensions may not exceed one year after the resolution of the condition that formed the grounds for suspension.
- 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; and
 - 3. Any event that would have disqualified the license from initially obtaining a license.
- d. Length of revocation. Any license revocation shall prohibit the licensee from being an owner, officer, director, manager, general partner, shareholder, and/or otherwise responsible for any marijuana business for one year after the resolution of the condition that formed the grounds for revocation.
- 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, pesticides, and similar substances - whether organic or synthetic - 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 manufacturing 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 and Dispensary 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 or dispensary 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 or dispensary meets the dispersal requirements of Sec. 35-42.

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; and
- 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.

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 minimum security requirements, which 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 connected to a new or existing AES system, and 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 and must be made available to an authorized representative of the City upon request.
 4. Exterior electronic monitoring and video cameras. Electronic monitoring and video camera recording records must be maintained for at least 14 days and must be made available to an authorized representative of the City upon request.
 5. Consistent and systematic prevention of loitering.
 6. Facilities approved by the Police Department for securing cash and all marijuana product packaged for sale. For all marijuana businesses, except for small scale caregivers, the following requirements shall be met:
 - i. All cash, other than amounts necessary for one day's operation, must be secured in a drop box safe, permanently affixed to the premises. Employees may not have access to the drop box safe, and a notice to that effect must be prominently displayed at the marijuana business.
 - ii. All marijuana products packaged for sale, when not being displayed for sale, must be secured in a locking safe that is at least UL TL-15 rated. The locking safe must be permanently affixed to the premises.

- iii. The Police Department may approve alternative security requirements if it provides at least the level of security required in this subsection.
- 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 video cameras showing the interior of the vehicle, as well as the exterior of the vehicle, and recordings must be maintained for at least 14 days and must be made available to an authorized representative of the City upon request; and
 - 3. For mobile operations of a marijuana retail store, marijuana manufacturing and marijuana cultivation, 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 sell any marijuana product to, or 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 waste and wastewater from any marijuana facility must be treated such that it will not create excessive odors, contamination, or pollution.
- 4. No waste from a marijuana business may be disposed of in residential trash.

35-39. Odor Mitigation Requirements.

The smell of marijuana shall not be detectable at the property boundary and/or at any adjoining use of the same property. 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.
3. If the marijuana or marijuana product has not been tested for quality, purity, and/or potency by an independent third party, 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 and Dispensary Requirements.

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

- a. Hours of operation. Marijuana retail stores and dispensaries 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 and dispensaries may not have uses other than marijuana retail or other retail on the premises, including entertainment or restaurant uses.
- e. Education requirements.
 - 1. Marijuana retail stores and dispensaries must distribute a leaflet, brochure, or flyer with every marijuana product sold, or place a sticker or label on every marijuana product sold, that informs the purchaser of:
 - i. The appropriate dosage of marijuana products;
 - ii. The dangers of over consumption;
 - iii. The impact that marijuana has on brain development; and
 - iv. Additional information as required by rules promulgated by the Department of Health and Human Services.
 - 2. Marijuana retail stores and dispensaries must have a sign, prominently displayed by the point of sale, informing customers of:
 - i. That consumption of marijuana is illegal at the federal level and that consuming marijuana could impact employment, immigration status, the right to own firearms, the right to a commercial driver's license, and other rights;
 - ii. That consumption of marijuana and marijuana products in public is illegal; and
 - iii. Additional information as required by rules promulgated by the Department of Health and Human Services.
 - 3. The City shall draft acceptable language for the leaflet, brochure, flyer, sticker, and/or signs required by this subsection. Any marijuana retail store or dispensary wishing to use alternative language must receive prior approval from the City's Department of Health and Human Services.
- f. Fixed location sales only.
 - 1. A marijuana retail store, small scale caregiver, and/or dispensary may only sell marijuana and marijuana products in person, directly to the purchaser, and out of a fixed and licensed location.
 - 2. Mobile sales, deliveries, catering, sales from vehicles or vessels, tours, and similar sales are specifically prohibited.
 - 3. Mail order, telephone, internet or similar remote sales are specifically prohibited.
 - 4. Notwithstanding the provisions of this section, a small scale caregiver, medical marijuana retail store, and/or dispensary may make deliveries of marijuana

products to a qualifying patient with whom that small scale caregiver, medical marijuana retail store, and/or dispensary has an existing relationship with and whose written certification regarding medical use of marijuana the small scale caregiver, medical marijuana retail store, and/or dispensary has previously verified in person.

- g. Drive through windows. A marijuana retail store or dispensary 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 or dispensary 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.

This distance restriction shall not apply to one adult use and one medical marijuana retail facility or dispensary 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 and dispensaries in the City combined shall be capped at 20.
 - 1. However, this cap shall not apply to any dispensary or medical marijuana retail store operating with a City business license, a change of use permit, and/or a site plan approval prior to September 1, 2019, so long as that dispensary or medical marijuana retail store does not apply to convert to an adult use retail store.
 - 2. If an existing dispensary or medical marijuana retail store applies to convert to an adult use retail store, the facility will become subject to the cap in this section and the allocation procedures of Sec. 35-13.
- j. Annual training. Each manager of any marijuana retail store or dispensary, and all front line staff of each marijuana retail store or dispensary must attend a City-approved training within ninety days of beginning in that position and then annually thereafter. Employing a manager or front line staff that does not have the required training may be grounds for suspension. If the training program is provided by the Department of Health and Human Services, the Department shall charge a fee for the cost of this class.
 - 1. Retail stores must submit a list of employees annually with their license renewal, along with verification that they have successfully completed a City-approved training program.

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 all signs that are visible from the exterior of the building:

- 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.