



ECONOMIC DEVELOPMENT COMMITTEE

DATE: Tuesday, January 7, 2020

TIME: 5:30 PM

LOCATION: City Council Chamber

Joint Meeting with Public Safety and Health and Human Services Committee

- 1. Review and accept draft Minutes of previous joint meeting held on November 26, 2019.**
 - a. See attached draft Minutes for review and approval.
- 2. Review and discussion, and possible vote to the City Council, regarding City of Portland Chapter 35 Draft Marijuana Regulations.**
 - a. See attached memo and attachments.

Councilor Justin Costa/Chair of the Economic Development Committee

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

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

Tuesday, November 26, 2019, 5:30pm, Council Chambers, 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).

Councilors in Attendance: Jill Duson (At-Large)

City Staff: Jon Jennings, City Manager; Jessica Hancombe, Licensing and Housing Safety Manager ; Anne Torregrossa, Associate Corporation Counsel ; Jim Sweatt, Commander of the Portland Police Department; Chris Goodall, Assistant Fire Chief, Kristen Dow, Health and Human Services Director; Adam Harr, Social Services Executive Assistant; Greg Mitchell, Economic Development Director; Bridget Rauscher, Chronic Disease Prevention Program Coordinator; Derrick Gittleman

Meeting called to order at approximately 5:36 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 after the staff presentation and committee discussion.

Chair Costa moved to approve the minutes, Chair Ray seconded and the minutes were approved unanimously.

AGENDA ITEM 2 – Marijuana Business Licensing

City Manager Jon Jennings explained a data outage forced the original meeting date to be postponed and apologized for the delay. City staff has worked for two years on its research, including visiting Denver, Colorado. He explained Jessica Hanscombe will present then go to questions and answers from the committees before holding public comment.

Jessica Hanscombe Presented the information in the Business Licensing Memo:

<https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=3899>

- Method of Allocation for Retail Licensing and Rounds of Licensing.
 - City Manager can determine the opening date, closing date and number of licenses in a round.
 - Staff would take applications and give one week to correct any deficiencies in an application.
- Complete applications will be scored based on the matrix in the memo.
- Licenses given based on score descending from the highest then a lottery to break ties.
- Licenses based on lottery when applicants are submitted within 250 feet of each other
- Points (+1)
 - 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
 - Consistent for adult use medical and retail license
 - 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 nonmarijuana 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 .
 - Already zoned correctly.
 - Already have an agreement with building owner.
 - 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.
 - No confusion with sale limits.
 - Required packaging and reporting.
 - Evidence of at least \$150,000 in liquid assets +1
 - About 1 year's worth of operating costs.
 - Other states have similar liquid asset requirements.
- 20 Store Cap on Retail Licenses
 - Other business licensing have caps, most similar to liquor stores.
 - Other cities have caps, some did not have them when laws were enacted and then added them later.

- MA: cap relative to the number of liquor store licenses (20%, that would mean 2 for Portland).
 - Washington originally allocated a number for retail licenses for larger municipalities and then updated its caps to the current standards.
 - Denver originally had no caps in 2014 and in 2015 enacted a cap on growing operations and retail after seeing more activity in economically disadvantaged neighborhoods.
 - Fort Collins determined medical retail licenses at one store per 500 patients.
 - Oregon passed a limit after finding supply significantly outnumbered demand when initially uncapped.
- Adult Use Manufacturing
 - Prohibition for manufacturing both marijuana products and non-marijuana products.
- On-Premises Consumption of Marijuana Products is prohibited.
 - Consistent with State law.
 - Non-marijuana products and marijuana products could be confused.
 - States with similar restrictions.
 - No stools or furniture.
 - Other jurisdictions have similar restrictions or restrict marijuana sales altogether and limit to related products such as paraphernalia or hemp products.
- Required Information
 - Sticker or Flyer with information at sale.
 - Health and Human Services will provide warning language.
 - Frontline staff receive training.
 - HHS would charge separately for this class.
 - Similar to required training for those who sell alcohol.
- Cultivation Tiers
 - 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
- Dispensaries
 - Dispensaries will have the same regulations as other retail stores.
 - Fee will be the same as medical retail stores.
 - Portland already has 1 medical retail store.
- Landlord permission
 - Notarized letter.
 - Or if permission is in the executed lease.
- Accreditation was removed as it is duplicative.
 - State will confirm.

- Security
 - Small scale care givers removed from requirements;
 - Cash be kept in a drop safe;
 - Clarifying the type of safes to be used;
 - Changes to mobile security requirements;
 - Burglar alarm connected to an AES box that sounds directly at dispatch.
- Fee Schedule
 - Anticipated number of applications based on feedback and will fluctuate year to year.
 - Fees will fund inspection and enforcement of the ordinance.
 - Health inspector
 - Code enforcement officer
 - Trainer
 - This will come from
 - Public Health
 - Police
 - Corporation Council
 - Cultivation – Tier 1
 - \$500
 - Cultivation – Tier 2
 - \$5,000
 - Cultivation – Tier 3
 - \$7,000
 - Dispensaries
 - \$5,000
 - Manufacturing and High Hazard
 - \$5,000
 - Manufacturing Manual Processing Only
 - \$2,500
 - Retail - Adult Use
 - \$10,000
 - Small Scale Care Givers
 - \$250
 - Estimated fees to be collect are \$319,000.
- Chapter 2.5
 - Burglar alarms to go directly to Dispatch.
- Chapter #
 - Sprinklers
- Chapter 11
 - Additional food class for food licensing for marijuana.
- Application Fee
 - \$500

- State Marijuana License's would expire one day from originally issued and would do so in tandem with the state so they would expire on the same day as State's.

Committee Questions and Discussion

- Councilor Batson asked about Denver not having a cap original: what were the original requirements?
 - Zoning and licensing but Denver shared they found they had an abundance of supply and had a proliferation of retail spaces in economically depressed neighborhoods.
 - The abundance led to product moving out of state.
 - The cap they enacted was less than the retail business in operation; as businesses closed none were added to reach the lower cap.
- Sprinklers
 - Fire Department that high hazard and industrial buildings need to be sprinkled with a small carve out for lower hazard production.
 - Was this found in other states (considering cost)?
 - They did not but can search for examples.
- Small Scale
 - Care givers are operating out of their homes without impact to the neighborhood.
 - As long as people stay small, 5 people or less, and;
 - not processing with solvents
 - Less than 250 sq. feet for a 2 bedroom single family
- Chair Ray asked if the required class for frontline retail staff is new. Bridget Rauscher of Public Health explained:
 - It was added since the last meeting.
 - There is currently responsible seller training for alcohol and there is likely something similar coming down from the state soon.
 - Each manager of each retail store or dispensary must attend annual training.
 - Eventually the state may offer a class.
 - Auburn has a similar requirement
- Matrix
 - Chair Ray distributed a sample of possible options to consider on the matrix.
 - Care Giver License
 - Similar to Alcohol
 - Felt the experience point would tilt things towards people who have operated a dispensary.
 - Non-state regulated.
 - Remove the minimum hold of 2 years
 - It favors people with more resources; if you own a building, you get an extra point.
 - People leasing already need to have permission from landlords.
 - Why is it in here?

- Some individuals are selling CBD or similar related retail operation.
 - This was to protect investment interest.
- Location greater than 500
 - Cap up to three points.
 - Not sure this criteria is valued more than others.
 - What is the max distance from a school that is possible?
 - 15,000 feet which would be 14 points.
 - What is the definition of a school?
 - State definition: k-12 public, private and certain public preschools not including private day care or universities.
- Business Plan Limiting to Just Marijuana Profits: Remove
- \$150,000 Liquid Assets: Remove
 - Feedback from the industry: concern about not being able to transfer a license.
 - If you are assigning licenses based on merit then transfer you lose policy goals.
 - We want to ensure businesses can be successful.
 - Marijuana businesses are leasing at double market price; 150,000 would likely not get through the first year.
 - Other locations have the liquid asset as a requirement, not a point.
 - Anticipating committee feedback, this was just one point.
 - What would be considered a liquid asset?
 - Defined in different ways: could be cash, a line of credit, etc. that are readily available to the business.
 - Do we require liquid assets for any other business licenses?
 - No
 - Flagged for further conversation.
- Performance Guarantee for Winding Down Business for three years (can be waived by City Manager after three years of successful operation)
 - Small amount for retail to dispose of product.
 - Manufacturing needs more due to hazardous chemicals and product.
 - Do we require performance guarantee for other business?
 - Some development.
- Chair Ray understands the concern about the sector but does not want to narrow entry into the market so much to limit entrepreneurship.
- Councilor Duson
 - Looking at the matrix and disadvantaged individuals;
 - Economically disadvantaged: Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others

- in the same or similar line of business who are not socially disadvantaged. (13 CFR § 124.104)
 - Socially Disadvantaged
 - Needs to be socially and economically disadvantaged.
 - It seems to be a point being given for not having access to credit and then a point given for having access to credit.
- Councilor Mavodones
 - He is open to the asset requirement.
 - Performance Bond or larger credit.
 - There is not standard financing for these businesses.
 - Can these businesses get a lines of credit?
 - There is pending legislation in Congress to have access to more traditional financing.
 - Make sure it is doable if it is required.
- Counselor Thibodeaux
 - He understands the notion of giving a point and taking it away. He would like to add the language Councilor Duseon spoke of with people of color facing disadvantages; He does not know the point value it should be.
 - He likes the asset requirement.
- Council Ali asked about the time requirement for giving points to recent immigrants?
 - It was chosen at random in response to feedback and can be changed.
- Councilor Duseon presumed that the list of groups in the ownership box:
 - The use of semi colons means we are listing different groups, not defining who is in the group.
 - Who is certifying this information?
 - SVA process is a starting point and staff are open to other models.
 - This was the model found in research
 - Is it our assumption that these applicants would have already been certified by SVA?
 - We would mirror that process.
 - This step should be detailed.
 - It can be onerous for small business so it is the intention to mirror but not be as onerous.
 - Councilor Duseon encourages to use the full term social and economically disadvantaged.
- Councilor Batson
 - Wants to create thoughtful policy that guards out of state businesses supplanting local businesses.
 - Small care giver:
 - Why is the requirement \$500,000 of insurance?

- For an individual growing for 3 people who is already paying fees to the state: now be required to pay \$250 and have insurance.
 - Any Business needs insurance. \$500,000 for any type of business is a best practice.
 - There is a type of caregiver that is unregistered (typically for family members). They are unregulated by us and not registered with the state.
 - Other types of business must have insurance: trucking, taxi etc.
 - Enforceability
 - Submit paperwork annually.
 - List the City as additional insured so City is notified when insurance is cancelled.
 - Small caregivers are the most challenging as they are the least visible.
 - State can share the list they have registered.
 - Small Scale care givers would receive a letter telling them to register.
- Chair Ray
 - What are the priorities to weight points appropriately?
 - Consider adding
 - Social Equity
 - Odor Control Plan
 - Address operating procedures in the matrix and be a part of scoring.
- Chair Costa
 - Future discussion How far can you be from a school property?
 - What should the definition of School be? Include pre-K or universities?
 - Resident: as proposed all officers, directors and managers would have to be Maine residents?
 - 51%
 - The majority of those position and the majority of the ownership (equity) for that point.
 - A majority of both groups, equity ownership and leadership needed to get a license with the state.
- Chair Ray
 - City Manager setting the timeframe for accepting applications
 - No limit on frequency of the rounds?
 - Round 1 could be ten licenses then do a second round for the rest.
 - Ordinance would need to change to go above the 20.
 - 250 feet buffer is based on public right of way:
 - Public Way: along or across, door to door. (not including crosswalks)
 - Not a straight line as the crow flies.
- 35-13

- Existing Medical would be treated as a retail.
- Medical stores operating are not licensed.
 - Some may be “grandfathered.”
 - Wellness connection is licenses and has been operating; they will likely be “grandfathered” and can only stay a dispensary. If it wanted to do adult use or medical retail, they would need to take one of the 20 spots. Getting under the cap would give them flexibility.
 - May end up with 22 or 23 total stores due to this.
- Safe Requirement
 - Chair Ray noted these safes are expensive.
 - Cost: they are not that expensive: 20-30% more in cost and is the only safe tested by UL labs and are able to demonstrate protection.
 - Minimum level accepted for prescription drugs.
 - Stamped and sterilized.
 - Any other safe would not be able to be inspected.
 - It is a one-time cost generally around \$2,000.
 - Is this for cash or product?
 - Cash with requested drop boxes.
 - Product in it overnight.
 - Councilor Mavodones: the ordinance contemplates something other than a safe when appropriate.
 - Large cultivation would be rated differently.
- Councilor Duson asked if the state licensing process requires an odor mitigation plan.
 - Both state and Portland requires it,
 - Chair Ray likes it but is not married to it.

Public Hearing

- Chair Ray explained the rules of public comment.
- Chair Costa explained this is not an action item.

Public comment opened at approximately 6:57 PM.

- Dave Boyer of St. John Street who worked on the 2016 citizens’ initiative that legalized adult use. He appreciates the work staff has done and has concerns about some of the points: the system rewards wealthy operations. 20 retail license cap will make them valuable and stifle the industry. 20 may seem reasonable but does it take into account that population grows in the summer and neighboring communities may not have marijuana businesses. The discretion afforded to the City Manager would be able to decide how many licenses are awarded. He understands it is a working document.
- Chris McCabe is a resident of Emory Street, a Cannabis attorney and a candidate for state office. The Health and Safety data used in this policy has largely been debunked. CO data shows positive trends. The deep pocket requirements is the city reaching into businessman making decisions out of their expertise. Whenever municipalities open

themselves up to favoring businesses opens themselves up to lawsuits. Some points are capricious.

- Representative Diane Russel campaigned to get adult use passed and is a part of NORML, her comments are her own. She speaks to the scoring of points. Social Equity: she wants to see more immigrants and women but the social equity program was to address and redress the real harm that prohibition has caused black communities: taking away voting rights and family members. Social equity is a restorative justice component. When adding this point and taking it away for having cash makes the point redundant. Likening must retain the following: if the population is over 1,000 then the... It is not the government's job to make sure businesses are successful, that is the market.
- Jim Liondow of South Portland – In Chapter 35-8, Safes: for cash he would like to remove the term “drop safe” as it is usually for a point of sale. 35-35.8.2 remove the requirements for a ULTL15 rating; it exceeds the requirements at VA hospitals for scheduled drugs. Recommended language: all MJ products for sale and not packaged for sale must be stored in a secure safe or room. The building materials for this secured space or room must be ... other prefab or model may be suitable such as metal or brick... doors and frames shall be steel. Doors and frame shall be ... the sizes mentioned for safe are far small than what people will be using.
- Jordan Smith of Pownal and in cannabis industry – He spoke to cannabis stigma and the rules created because of it. We should be able to operate like other businessman and not be given these impossible burdens. He shares the feelings of other members of the industry and is in the extraction part. He was disheartened to hear comments about extraction. He invests a lot in compliance in this new industry. Compliance becomes practically impossible as the industry evolves. He asked for a way forward that makes sense. He spoke to safes. One pound of product packaged for retail would be lucky to fit in the safes listed.
- Greg Gould is a care giver and edibles manufacturer out of fork food labs and his house – he thanked the group for their work on this and commented on how the disabled are not included on the first group. He cannot work a regular job and is economically disadvantaged and would like to see that group included. He came to Maine for medicinal cannabis and is a caregiver as well as a patient. The safe listed would not hold anyone's product. The safe's insurance companies are requiring are \$17,000. He asked about grandfathering as a permitted edibles manufacturer and small scale care giver out of his house. The best way to prevent people from doing business in the black market is to reduce the barriers to entry; these regulations won't reduce black market activity.
- Sean Bowen of North Deering and has minor involvement in the cannabis industry and moved to Maine for this opportunity. He feels the cards are stacked against him. There are no other industries that require 150,000 dollars in assets and seems excessive for a new industry especially when it is supposed to prop up disadvantaged people. He didn't see the logic of shutting down economic development in economically depressed areas. The best way to fight the black market is to make it easy; CA shut down businesses and black market operations replaced them and put vitamin e tainted products in the street,

- Matt of wellness connection of Maine – Transferability of licenses. Normal financing is not available in this industry. To get money you need investors. They are not suggesting wholesale transfer, but some type of regulation allowing transfer; it is necessary for the industry. They have been operating for years and would hope for more than one point. He suggested a cap of 5 points, one point per year of operation. Residency is an issue at the state level and has caused turbulence; he doesn't think the city should do this. Wellness connection is a nonprofit and would be disqualified in this ordinance. They would like the ability to convert.
- Seth Russel with zarilla law firm. He agreed with many comments, especially those on the cap limiting entry. He does not like the 250 buffer and does not see a parallel to bars as there won't be consumption.
- Elli Quimby is an attorney speaking for clients planning on doing business in Portland. Point system as structured, the bulk of applicants will receive the same score and many would likely need to be decided via lottery. They suggest awarding 5 points per year for operating related businesses. This would reduce likelihood of a tie. Transferability is needed in this industry as it is still illegal at the federal level.
- David Stevenson is of Hazy Hill Farm – He has developed his brand an infrastructure in the hopes of participating in the adult use market developed by the medical side. MA's market has been taken over by large businesses and pushed out small businesses. He is concerned about the 20 cap and 250 foot rule which is a zoning issue not an application issue; businesses have planned and taken root based on the zoning and have to overcome huge obstacles. He is also concerned with points based weighted lottery. The points given to given \$150,000 seems to push out care givers. He thinks the cannabis leaf sign is silly.
- Adam Mconnor of District 4 – He has worked professionally for oversight and in Portland adult use passed in a landslide and the number of business should be determined by the market not license cap. The minimum fails to reflect the over 400 liquor licenses issued by the city. The ordinance will promote the black and grey markets. Portland downtown touts the restaurant and bar scene as a reason to visit listing restaurants and bars yet cannabis is limited to 20. The tourism in the summer should include cannabis. Portland should lead by example and let disadvantaged people participate in the industry.
- Scott Hurst security specialist in the industry – The safety and security issue: having a safe to the dimensions discussed is way too small. Product and currency won't be stored together. It must be reasonable to store in a room that is made secure.
- Alecia Melnet is an attorney and advocates on the medical and adult use industry with ACLU of Maine and represents the Maine Craft Cannabis Association –She thanked for the work and reminded this is not a new market. It has existed for decades and people and tourists will get it regardless if it is from a legal avenue or not. She said the points system should acknowledge that MJ has been easily available in the medical and black markets. Some of these points have been crafted assume they are dangerous. Children already have access to illegal marijuana. Child drug use drops in legal states as black market sales get supplanted by legal sellers. If things are made hard, people will engage in the black market, She asked real data be used to make decisions and prevention be focused on dangerous substances such as alcohol, opioids and methamphetamine,

- Scott Howard of Pownal Maine and open minded a business in Portland in 1994. He participated in the farmers market in Deering Oaks. He hopes that if there is appointment system, people who have run successful businesses be awarded points. He hopes the donations go to substance use help and that seating be allowed in stores.
- Syllas Sack of Portland Maine is a commercial broker - cultivation on 7,000 square feet. Is that for multiple tenants under one roof or limited to one? Can there be more than one cultivation business under one roof. They have 40,000 square foot building but only one 7,000 sq. ft. operation can operate at the location in South Portland.
- Anthony Setheny, Advocate for legalization – He understands looking at other states but the market forces in Maine and points system: no one really fits the language under previous experience. Dispensaries have been around since 2007 but there have been caregivers for that long investing their life savings and reinvesting with more one the line than the monopoly the dispensaries have. Something needs to be done there, He thinks caregivers should be excluded from the distance requirement. The distance measurement: bars
- Andrew Pettingale of Cumberland and Evergreen Cannabis Company – He stood before the Council in Zoning and when that was approved he went forward with his lease. Since then he has been paying for it waiting for the committees to move forward with the ordinance. The buffer zone math doesn't seem to add up and asked that the city show the math. The liquid assets can be found if investors are sought. Do small businesses need or want to give up equity in the businesses they have invested in over the years? They have been inspected, got police approval from their labeling and are concerned about how long it is taking and the perceived protectionism. They currently give 1% of their profits to recovery and a 1% donation to the city would supplant that. He would rather see a tax because he feels they are being extorted.
- Tom with Fire on Fore – He emailed written testimony and would like to highlight vetting applicants and awarding to those most deserving not the most lucky. He is confused why only one point is given for operating a marijuana store; currently it would be weighted the same as a barbershop operating for five years. He would clarify on the language on grandfathering. Fire on Fore was allowed to move forward through the moratorium on new marijuana businesses; his businesses would be excluded from the grandfathering despite operating a successful business ahead of the ordinance.
- Kerri Thorpe of Washington Avenue – Thanked the City for its work and is speaking as a small caregiver. She uses it to supplement her massage therapy businesses. How will the City allocate licenses amongst retail and small caregivers? She is a single mom and caregiving helps her support her family. As written she could need to move out of town.
- Hannah Kind of Drummond Woods, representing industry and First Nations tribes on the cannabis industry. She testifies in opposition in the prohibition of transferring licenses. Licenses can be transferred at the state level. It is important for the cannabis industry as businesses cannot access traditional financing. Other businesses can go to a bank when a retail store floods; in the cannabis businesses they would need to sell equity which would forfeit their license in this regulation. She asked that the city license would follow the state license. She recommends requiring applicants demonstrate conditional licensing

with the state or that they have applied. It is a heavy lift and would demonstrate seriousness.

- Jim Hamilton of Portland and Grassroots Marijuana – He is shocked for giving points for sex, gender or race. He is one of the first hundred caregivers and patients in the state. He doesn't see why someone outside the industry should have equal points awarded. 1% profit donation seems like pay to play and should be done through fees and taxation. He sees the liquid assets as legitimate. Building owners should have extra points. Keep points for Portland residents.

Public comment closed at 7:57 PM

- Chair Ray asked Corporation Council if more than one entity can exist under one roof with the 7,000 sq. ft.
 - Zoning: Yes if the spaces are separated.
- Small care givers
 - Permitted to manufacture in-home with the state – department of agriculture
 - Unknown
 - If someone is currently manufacturing
 - “Grandfathering” is a zoning term.
 - Shorthand for its understanding.
 - Care givers over five or manufacturing can scale down or can get a manufacturing license.
 - Act to fit into our regulations.
- Manufacturing: no need for grandfathering as there is no cap.
 - Concern would be zoning use allowing it.
- Councilor Thibodeaux asked if the last comment on disadvantaged populations be address.
 - Not at this time.
- Chair Costa asked the committee how they would like to move forward.
 - Councilor elect Tae Chong is in the audience.
 - Move forward with joint meetings.
 - No one disagreed.
 - Councilor Mavodones suggested wrapping up considering time.
 - Threshold guidance to staff:
 - Bonus Point provisions
 - Cap
 - Yes/No?
 - If yes, what number?
 - Points Matrix Criteria
 - What should be added or removed.
 - What is the weighting?
 - Safes
 - Transferability of licenses given inability to get credit.

- Chair Costa would like to get into these details. In broad terms, he would like to entertain a more flexible system. He is concerned that transfers of ownership where the businesses don't change. He doesn't want to see value created under the cap and businesses sitting on a golden ticket.
 - Performance Guarantee
 - Seating/consumption
 - Sale of non-marijuana products.
 - Buffer
 - Would there be a workshop? Likely another work session without public comment on these issues.
- Councilor Batson
 - Matrix
 - Add people of color to the first point as the war on drugs was created to criminalize non-whiteness. These should be prioritized higher.
 - 51%
 - Should eliminate 'or another state'
 - Should try to keep this in the state
 - Add more than years
 - Be more than 1 point
 - License by the state is not a priority for him
 - Supports eliminating the minimum of 2 year performance guarantee.
 - Supports business plan
 - Supports 1% restricted donation or adds to something other than youth substance use education such as the opiate use disorder treatment mentioned in public comment.
 - Not a priority limiting to sector.
 - Does not like the \$150,000 asset requirement.
 - He supports the remainder of the matrix points Chair Ray added.
- Next meeting will be scheduled during either of the committee's standing time.
- Anne confirmed
 - Researching sprinkler systems are required in other manufacturing facilities
 - School definition
 - Possible distance from school
 - About to get liquid assets given federal regulations.
 - Additional info on socially disadvantaged people and adding socially disadvantaged language.
 - Brainstorm alternatives to the 10% transferability
- Councilor Dusen noted presumed socially disadvantaged groups includes people of color.
 - Look closely at CVA rules and the federal process.

Councilor Mavodones moved to adjourn and Councilor Ali seconded; the motion passed unanimously.

Meeting adjourned at 8:19 PM.

DRAFT

MEMORANDUM

TO: Health and Human Services and Public Safety Committee; Economic Development Committee
CC: Greg Mitchell; Kristen Dow
FROM: Staff working group
DATE: December 30, 2019
RE: Marijuana Business Licensing Update

INTRODUCTION

At the last Committee meeting on November 26, 2019, the Committee had additional questions for staff, which are addressed here:

1. Whether other jurisdictions require manufacturing facilities be sprinkled
2. The definition of “school” for purposes of the 500’ setback and additional points for a retail store applicant for distance from a school
3. The maximum distance that a retail store could get from a school
4. How “liquid assets” might be defined if points were given to a retail store with minimum liquid assets on hand
5. Whether cannabis businesses can access lines of credit and performance guarantees
6. Additional information about the SBA’s business development program and how the City might mirror that process for giving points to socially and economically disadvantaged individuals
7. A proposal to allow the transfer of retail store licenses if the Committee chose to do so

ANALYSIS

1. Requirements in other jurisdictions to sprinkle manufacturing facilities.

Staff has proposed adding a requirement to Chapter 10 of the City Code that would require marijuana manufacturers to install sprinklers. Manufacturing facilities can use highly flammable and combustible materials in their processing, and manufacturing facilities have produced some significant explosions across the country. In fact, the Bangor Fire Department responded to an explosion earlier this year at a manufacturing facility, where the explosion was only contained because it was in a former military building with one-foot thick concrete walls and ceiling.

With respect to the requirement to sprinkle manufacturing facilities, the Committee asked if other communities were imposing similar requirements. In Maine, we are aware that the Town of Sanford has a similar requirement to install automatic sprinkler systems above the requirements of the NFPA 1 Fire Code. In fact, Sanford goes above and beyond what City staff is proposing and also requires that all marijuana retail businesses be sprinkled.

2. Definition of schools for purposes of buffer requirements.

The amendments to the Zoning Code that were previously passed require a 500' distance from "a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1." The draft of the licensing ordinance also provides points for each additional 1,000 feet from a school. The Committee asked for clarification on the definition of school. Under state statute: "Public school" means a school that is governed by a school board of a school administrative unit and funded primarily with public funds. "Private school" means an academy, seminary, institute or other private corporation or body formed for educational purposes covering kindergarten through grade 12 or any portion thereof. "Public preschool program" means a program offered by a public elementary school pursuant to chapter 203 that provides instruction to children who are 4 years of age, including but not limited to a Head Start program that is approved as a component of the public preschool program."

3. Maximum distance that a business could get from a school.

Staff analyzed the maximum distance a retail marijuana (adult and/or medical) store could get from a school by measuring distances from school parcels to the farthest extent of areas zoned to permit retail marijuana sales. First results produced a misleadingly high maximum distance of nearly 10,000 feet, because the area of the B-4 included in the initial results is currently state-owned land near the Jetport and unlikely to be available for retail uses. Further analysis revealed a maximum distance of approximately 4,000 feet. Under the draft regulations, this analysis shows approximately 36% of the allowed total zone areas potentially offering 1 point, and approximately 14.5% affording 2 points.

4. How "liquid assets" are defined in jurisdictions that require minimum assets.

Staff has proposed awarding one point for marijuana retail applicants that can provide evidence of at least \$150,000 liquid assets. At the last meeting, staff provided examples of other jurisdictions that require minimum liquid assets for licensure at all. The Committee asked about how those jurisdictions defined the required assets.

- Pennsylvania – for dispensaries requires \$150,000 "on deposit with one or more financial institutions," basically requiring cash on hand.
- Aurora, CO – requires \$400,000 "in liquid assets available under the applicant's control." Aurora defines liquid assets as "assets that can be readily converted into cash, and includes assets that will be placed directly into the retail marijuana store. Liquid assets include, but are not limited to, the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, United States savings bonds, furniture and equipment, packaged marijuana, and related products and inventory to be transferred to the retail

marijuana store. "Liquid assets" does not mean household items, vehicles, marijuana plants, and real property and improvements thereto."

- Michigan – requires that a retail store have \$300,000 of "capitalization," with not less than 25% in liquid assets. "[L]iquid assets include assets easily convertible to cash, including, but not limited to, cash, certificates of deposit, 401(k) plans, stocks, and bonds."

5. Whether cannabis businesses can access a line of credit, other types of liquid assets, and a performance guarantee.

Currently, there is one Maine financial institution, cPort Credit Union, that is openly serving the cannabis industry and has plans to roll out lending products for that industry later this year. Additionally, the Secure and Fair Enforcement (SAFE) Banking Act of 2019, supported by Senators King and Collins, passed in the House of Representatives in September 2019. The Senate has not yet voted on it. This legislation may provide the federal assurances that banks and credit unions need to provide banking services and financing products to the cannabis industry.

Given similar requirements in other jurisdictions across the country, and the more robust cannabis industry elsewhere, staff will try to get additional information on resources for cannabis industries outside of Maine.

6. The SBA's Business Development Program definitions.

The proposed ordinance provides one point towards retail licensing for a business that is "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." The Committee asked for additional information on the SBA process and how that might be implemented at the City level. Suggestions were also made to ensure that individuals qualifying for the point are both socially and economically disadvantaged to track the SBA requirements, and to remove recent immigrants from the qualifications.

The SBA regulations state that, "Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control." The regulations specify that there is a rebuttable presumption that the following individuals are socially disadvantaged:

- Black Americans;
- Hispanic Americans;
- Native Americans;

- Asian Pacific Americans; and
- Subcontinent Asian Americans.

Individuals who do not fall within those groups may establish individual social disadvantage through a set of criteria defined by the SBA regulations.

In addition to being socially disadvantaged, under the SBA regulations, an applicant must also be economically disadvantaged to qualify for programming. Economic disadvantage is established through the submission of personal financial information. Simplified down, the individual must show:

- Net worth of less than \$250,000. This does not include equity in the applicant marijuana business, a personal residence, certain retirement accounts, and certain other assets.
- Average income of less than \$250,000 for the previous three years.
- Total net worth of less than \$4 million.

The SBA evaluates each application individually with the help of certain certifications and narratives, and staff would propose to implement a similar process for the City. The Council may consider allowing the City Manager to promulgate rules for this certification process.

7. Alternatives to allow limited transfer of retail stores ownership.

Under City ordinances, no transfer of business licenses is permitted at all. However, in practice, the City has allowed a de minimus transfer of up to 10% without requiring a new business license. This is true for all licenses, including those that may be forfeited in the case of a change of ownership, such as entertainment licenses in the Entertainment Overlay District, short term rentals, and certain taxi licenses. Staff recommends treating marijuana retail businesses in the same manner. Allowing transfers will create a market for retail licenses and will undermine the City's efforts at ensuring that the most qualified and responsible individuals get retail licenses.

That said, if the Committee does want to allow some ability to transfer marijuana retail licenses, staff recommends allowing the transfer of no more than 25% of the business in any five-year period, and recommends that transfers be subject to the following restrictions:

- Any transfer must not impact the business's qualification points under the matrix currently proposed in § 35-13(f). E.g. if a business gained a point for being 51% women-owned, one point for a five-year successful business history, and one point for an individual with experience running a dispensary in Maine, the transfer may not impact those point awards.
- The new owners must pass the same requirements and background checks as any initial owner.
- The transfer must be approved by the State.



Memo

To: Health and Human Services Public Safety Committee and
Economic Development Committee

From: Interim Assistant Chief James Sweatt

Date: 12/31/2019

Re: Marijuana Proposed Storage Requirements

At the most recent Committee meeting, several comments focused on the proposed requirement to install TL-15 rated safes to store product, and drop safes to store cash. This memo addresses some of the concerns raised and also proposes alternative language if the Committee decides to adjust the proposed requirements.

The primary goal of requiring a safe and other security measures is to reduce the chance that products will be diverted to the "black market," and also reducing illegal access to minors. Secondly, given the significant amount of cash typically held on hand in such businesses, the marijuana industry will also be a potential target for any criminals or criminal organizations. The layered approach proposed in the current ordinance is designed to hopefully thwart any potential attack. In addition, limited access to employees and inventory control are essential to incorporate in security plans in conjunction with physical security.

After several discussions with experts in the safe and security industries, and consultation with potential members of the marijuana industry, they agreed on the need for security. However, they identified that the volume of cash that will be onsite and the volume of finished and refined product that will be stored at retail stores or production facilities, creates challenges unique to their industry. These businesses have demonstrated a need for a large physical space to store product securely, which needs can exceed the average UL TL 15 safe in practical purposes.

After conducting additional research, I make the following recommendations, if the Committee wants to modify the existing ordinance requirements:

- All monies shall be stored in UL TL 15 safes. Cash drop box style safes shall be placed at every point of sale. Cash should be secured as soon as practical. At the end of each business day all cash will be secured in UL TL 15 safe. That safe should be located away from all points of sales and limited employee access.

- When practical, bulk retail items should be stored in a UL TL 15 safe after business hours. However, where a UL TL 15 safe is impractical, a Product Storage Room is a viable option. Where a marijuana business wants to use a Product Storage Room, that business must produce independent analysis by a security professional that the Product Storage Room meets or exceeds the below requirements.

The Product Storage Room will have two options to allow for effective operation:

- 1) A UL TL 15 rated Product Storage Room; or
- 2) A Product Storage Room that meets the following requirements, which are taken largely from the U.S. Drug Enforcement Administration, Diversion Control Division regulations, found at 21 C.F.R. 1301.72.
 - (i) The walls, floors, and ceilings of which vault are constructed of at least 8 inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with $\frac{1}{2}$ -inch steel rods tied 6 inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;
 - (ii) The locking mechanism, door and frame unit shall conform to the following specifications or the equivalent: 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry;
 - (iii) Which vault, if operations require it to remain open for frequent access, is equipped with a "day-gate" which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;
 - (iv) The walls or perimeter of which vault are equipped with an alarm, which upon unauthorized entry shall transmit a signal directly to a central station protection company, or a 24-hour control station operated by the registrant, or such other protection as the City of Portland may approve, and hold up buttons at strategic points of entry to the perimeter area of the vault and points of sale; and
 - (v) The door of which vault is equipped with contact switches for alarms.

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.