CITY COUNCIL WORKSHOP

MEETING TO BE HELD REMOTELY

DATE: May 4, 2020

TIME: 4:30 PM

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Webinar ID: 842 6663 0124

AGENDA ITEMS:

1. Marijuana Licensing

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE CHAPTERS 10, 11, 15 AND 35
RE: MARIJUANA BUSINESS LICENSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Section 10-18 of Chapter 10 of the Portland City Code is hereby amended to read as follows:

Sec. 10-18. Amendments.

The Fire Prevention Code adopted by section 10-16 is amended, modified and deleted in the following respects:

(a) The following provisions shall be added to the Fire Code as unnumbered sections, and shall amend any provisions of the Fire Code to the contrary:

...

(u) Annex E, Fire Fighter Safety Building Marking System is adopted.

(v) Section 38.3.1 shall be added as follows:

For other than CO_2 and nonhazardous extraction processes, any facility conducting marijuana extraction shall be protected throughout with a NFPA 13 sprinkler system.

(w) Section 38.6.2.4.4 shall be added as follows:

In addition to the continuous gas detection system required by 38.6.2.4.1, at least one gas detection monitor, supervised by a monitored fire alarm system, shall be installed outside of an extraction room. The gas detection monitor shall be installed in accordance with NFPA 72.

2. That Sections 11-4 and 11-22 of Chapter 11 of the Portland City Code are hereby amended to read as follows:

Sec. 11-4. Amendments.

The Maine State Food Code 2013: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

...

(b) Section 1.201.10.B shall be amended to add the following:

> *Base station* shall mean a location used by a mobile food service establishment for the disposal of liquid/solid waste, re-filling of water tanks and the storage of food, supplies, and equipment. A base station is permissible for one or more of these purposes. However, the *preparation of food* or *ware washing* is not permissible unless it is a licensed commercial kitchen.

...

> *Marijuana food processing establishment* shall mean a commercial establishment in which food is processed or otherwise prepared and packaged for sale to retail outlets or directly to consumers.

...

Sec. 11-22. License Required.

No person shall operate any food service establishment or marijuana food processing establishment within the city unless licensed to do so by the city. Applications for licenses for a food service establishment, other than a temporary food service establishment, must be submitted at least thirty (30) calendar days before operations are planned to commence. Applications for licenses for a temporary food service establishment must be submitted at least seven (7) business days before operations are planned to commence.

3. That Sections 15-6 and 15-12 of Chapter 15 of the Portland City Code is hereby amended to read as follows:

Sec. 15-6. Fees.

(a) *Application fees.* Except as expressly provided, all applications for original licenses or for the consent of the city council, other than a flea market seller, temporary FSE or auction license, shall be accompanied by an administrative fee of forty-five dollars ($45.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of thirty-five dollars ($35.00), except for a flea market seller to defray the cost of processing the application. In any case where notice by publication or mail is required, the applicant shall pay the cost of publication and postage in advance. Application fees shall not be refundable.

(i) Applications for any original licenses pursuant to Chapter 35, other than licenses for Small Scale Caregivers, shall be accompanied by an administrative fee of five hundred dollars ($500.00). Applications for renewal of licenses pursuant to Chapter 35, other than licenses for Small Scale Caregivers, shall be accompanied by an administrative fee of two hundred and fifty dollars ($250.00).

(ii) Applications for original Small Scale Caregiver Licenses shall be accompanied by an administrative fee of fifty dollars ($50.00). Applications for renewal of Small Scale Caregiver Licenses shall be accompanied by an administrative fee of forty dollars ($40.00).

...

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
Ch. 3, Art. II	Bottle clubs (must obtain FSE and entertainment if applicable)	$940.00	June 30

...

Ch. 11, Art. II	Food service establishments (FSE):		

	FSE/Commissary - Food preparation on premises	$459.00	January 31
	Marijuana Food Processing Establishment	$459.00	Concurrent with marijuana license

...

Ch.30, Art. V	Tour companies	315.00, plus 32.00 per vehicle/operator operator	April 30
Ch. 35	Marijuana Cultivation – Tier 1	500.00	Twelve months/concurrent with state license
	Marijuana Cultivation – Tier 2	5,000.00	Twelve months/concurrent with state license
	Marijuana Cultivation – Tier 3	10,000.00	Twelve months/concurrent with state license
	Manufacturing – manual	2,500.00	Twelve months/concurrent with state license
	Manufacturing – high hazard	5,000.00	Twelve months/concurrent with state license
	Retail Marijuana – medical	5,000.00	Twelve months
	Retail Marijuana – adult use	10,000	Twelve months/concurrent with state license
	Small Scale Marijuana Caregiver	250.00	Twelve months
	Marijuana Testing	1,000.00	Twelve months/concurrent with state license

...

4. That the Portland City Code is hereby amended by adding sections to be numbered Chapter 35, Articles I to II, Sections 35-1 to 35-45, which said sections read as follows:

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 II. 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. However, retail and dispensary licenses shall be transferable in accordance with Sec. 35-42 until the effective date of federal legislation allowing federally regulated financial institutions to serve marijuana businesses, or the removal of the cap on marijuana retail stores and dispensaries in Sec. 35-42(i).

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 and economically disadvantaged individual(s), as defined further by regulations to be promulgated by the City Manager based off of the Small Business Association Section 8(a) regulations.	6
At least 51% owned by individual(s) who have been a Maine resident for at least five years.	5
Owned by individual(s) with experience running a business in a highly regulated industry, such as marijuana, liquor, banking, etc. with no history of violations or license suspensions or revocations.	6
Owned by individual(s) who have previously been licensed by the State of Maine or a Maine municipality for non-marijuana related business, with no history of violations or license suspensions or revocations for a minimum of 5 years	4
Owned by individual(s) who have been a registered caregiver in the State of Maine for at least two years.	3
Ownership of proposed retail location by applicant; or at least five year lease for proposed retail location.	4
Evidence of at least $150,000 in liquid assets	2
Business plan committing to social and economic development, by including three or more of the following: 1. Create at least full-time jobs paying a minimum of $15/hr;	4

2. Provide PTO (or vacation/sick time) and health benefits to employees; 3. Provide at least one annual training around diversity, cultural awareness, sexual harassment, or workplace violence. Training must be in addition to any required by the State or City; 4. Annual contribution of 1% net profits as a restricted donation to the City for youth education on substance use education and prevention.	

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.

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 or its third party designee for securing cash and all marijuana product packaged for sale as further detailed in regulations to be promulgated by the City Managert. Regulations shall require facilities sufficient to provide for the safety of employees and the public, and to prevent employee and third party theft and diversion.

   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

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 marijuana products is not permitted.

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, except that the sale of pre-packaged, ready-to-eat foods that are not prepared on site and non-alcoholic beverages shall be allowed provided the applicant has an appropriate food service license.

e. Education requirements.

   1. Marijuana retail stores and dispensaries must have a sign, prominently displayed by the point of sale, informing customers of:

      i. The dangers of over consumption;

      ii. The impact that marijuana has on brain development;

      iii. 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;

      iv. That consumption of marijuana and marijuana products in public is illegal; and

      v. Additional information as required by rules promulgated by the Department of Health and Human Services.

   2. The City shall draft acceptable language for the 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.

The distance restriction shall also not apply to an existing dispensary or medical marijuana retail store that qualifies pursuant to Sec. 35-42(i)(1).

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, certificate of occupancy, 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.

k. Transfer of retail and dispensary licenses. The ownership of a retail or dispensary licensee may only be transferred subject to the following limitations:

1. No more than 25% of the ownership interests in a licensee may be transferred in any five-year period.

2. Any transfers of interest in a retail or dispensary license occurring before January 1, 2025 must not impact any of the licensee's points calculated under Sec. 35-13(f)(4).

3. Any new owners must meet all requirements of this Chapter and be approved by the State of Maine.

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:

Signs shall not contain the image of a marijuana leaf, plant, or readily identifiable marijuana product;

Signs may not be animated or have variable messages;

Signs may not have cartoons or similar images that are likely to appeal to minors; and

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.

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. However, retail and dispensary licenses shall be transferable in accordance with Sec. 35-42 until the effective date of federal legislation allowing federally regulated financial institutions to serve marijuana businesses, or the removal of the cap on marijuana retail stores and dispensaries in Sec. 35-42(i).

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 and economically disadvantaged individual(s), as defined further by regulations to be promulgated by the City Manager based off of the Small Business Association Section 8(a) regulations.	6
At least 51% owned by individual(s) who have been a Maine resident for at least five years.	5
Owned by individual(s) with experience running a business in a highly regulated industry, such as marijuana, liquor, banking, etc. with no history of violations or license suspensions or revocations.	6

Owned by individual(s) who have previously been licensed by the State of Maine or a Maine municipality for non-marijuana related business, with no history of violations or license suspensions or revocations for a minimum of 5 years	4
Owned by individual(s) who have been a registered caregiver in the State of Maine for at least two years.	3
Ownership of proposed retail location by applicant; or at least five year lease for proposed retail location.	4
Evidence of at least $150,000 in liquid assets	2
Business plan committing to social and economic development, by including three or more of the following: 1. Create at least full-time jobs paying a minimum of $15/hr; 2. Provide PTO (or vacation/sick time) and health benefits to employees; 3. Provide at least one annual training around diversity, cultural awareness, sexual harassment, or workplace violence. Training must be in addition to any required by the State or City; 4. Annual contribution of 1% net profits as a restricted donation to the City for youth education on substance use education and prevention.	4

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.

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 or its third party designee for securing cash and all marijuana product packaged for sale as further detailed in regulations to be promulgated by the City Managert. Regulations shall require facilities sufficient to provide for the safety of employees and the public, and to prevent employee and third party theft and diversion.

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

    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. <u>Hours of operation</u>. 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. <u>Age restrictions</u>.

    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. <u>On-premises consumption of any marijuana products is not permitted</u>.

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, except that the sale of pre-packaged, ready-to-eat foods that are not prepared on site and non-alcoholic beverages shall be allowed provided the applicant has an appropriate food service license.

e. Education requirements.

1. Marijuana retail stores and dispensaries must have a sign, prominently displayed by the point of sale, informing customers of:

    i. The dangers of over consumption;

    ii. The impact that marijuana has on brain development;

    iii. 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;

    iv. That consumption of marijuana and marijuana products in public is illegal; and

    v. Additional information as required by rules promulgated by the Department of Health and Human Services.

2. The City shall draft acceptable language for the 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.

   The distance restriction shall also not apply to an existing dispensary or medical marijuana retail store that qualifies pursuant to Sec. 35-42(i)(1).

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, certificate of occupancy, 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.

k. Transfer of retail and dispensary licenses. The ownership of a retail or dispensary licensee may only be transferred subject to the following limitations:

   1. No more than 25% of the ownership interests in a licensee may be transferred in any five-year period.

   2. Any transfers of interest in a retail or dispensary license occurring before January 1, 2025 must not impact any of the licensee's points calculated under Sec. 35-13(f)(4).

3. Any new owners must meet all requirements of this Chapter and be approved by the State of Maine.

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:

Signs shall not contain the image of a marijuana leaf, plant, or readily identifiable marijuana product;

Signs may not be animated or have variable messages;

Signs may not have cartoons or similar images that are likely to appeal to minors; and

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.

Chapter 11 FOOD AND FOOD HANDLERS*

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2013: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; commissary; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

Imminent health hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard.

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that sell unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed fourteen (14) days per transitory gathering.

(b) Section 1.201.10.B shall be amended to <u>add</u> the following:

Base station shall mean a location used by a mobile food service establishment for the disposal of liquid/solid waste, re-filling of water tanks and the storage of food, supplies, and equipment. A base station is permissible for one or more of these purposes. However, the *preparation of food* or *ware washing* is not permissible unless it is a licensed commercial kitchen.

Food pantries shall mean an organization or entity that acquires, stores and distributes food to the needy in their community. Food pantries are typically supported by community food drives, umbrella organizations, as well as grocery stores, local agriculture, food manufacturers and other distributors. All items are pre-packaged, properly labeled, and no food preparation occurs. If bulk food packages are divided, they shall be in properly labeled, food safe containers.

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Ice cream truck shall mean a motorized vehicle utilized for the sale of prewrapped or prepackaged ice cream or frozen yogurt or ice cream or frozen yogurt products or novelties.

Innholder shall mean and include any person offering to the public, generally, lodgings and food as the occasion requires where the person rents out four (4) or more rooms or cottages.

Marijuana food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged for sale to retail outlets or directly to consumers.

Mobile food service establishment shall mean and include only a food service establishment on wheels that transports and sells food;; and is moved to a different location no less than once every twelve (12) hours.. For purposes of this ordinance, mobile food service establishments include pushcarts, food vending trucks/trailers and ice cream trucks. These establishments shall meet the rules and regulations specific to their type.

Shelters shall mean an establishment providing temporary housing and meals for those in difficult domestic situations, as well as for homeless families and individuals. In addition many shelters provide referrals to other social service agencies. Shelters are often considered agencies of larger food banks or food share operations.

Stationary food vending unit shall mean any vending unit from which food products are sold and which is licensed for one (1) location on private property and conducts all of its sales from that one (1) location.

(c) Section 1.201.10.B shall be amended to delete the following definitions:

Adulterated, Easily cleanable, Employee, Equipment, Food, Food-contact surface, Kitchenware, Poisonous or toxic materials, Potentially hazardous food, Sealed, Molluscan shellfish, Single-service articles, Tableware, and Utensil.

(d) Section 3-603.11.B shall be amended as follows:

(B) Disclosure shall include:

(1) A description of the animal-derived Foods, such as "oysters on the halfshell (raw oysters)," "raw-Egg Caesar salad," and "hamburgers (can be cooked to order)" with an asterisk to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients; or

(2) Identification of the animal-derived Foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) A reminder shall include asterisking the animal-derived Foods requiring Disclosure to a footnote that states:

(2) Consuming raw or undercooked Meats, Poultry, seafood, shellfish, or Eggs may increase your Risk of foodborne illness.

(Ord. No. 94-12/13, 11-19-12, Ord. 208-14/15, 4-27-2015; Ord. No. 304-15/16, 7-20-2016; Ord. 18-17/18, 8-21-2017)

DIVISION 2. LICENSE*

***Cross reference(s)**--Licenses and permits generally, Ch. 15.

Sec. 11-22. License Required.

No person shall operate any food service establishment <u>or marijuana food processing establishment</u> within the city unless

licensed to do so by the city. Applications for licenses for a food service establishment, other than a temporary food service establishment, must be submitted at least thirty (30) calendar days before operations are planned to commence. Applications for licenses for a temporary food service establishment must be submitted at least seven (7) business days before operations are planned to commence.
(Ord. No. 94-12/13, 11-19-12; Ord. 18-17/18, 8-21-2017)

Chapter 15 LICENSES AND PERMITS*

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
Ch. 3, Art. II	Bottle clubs (must obtain FSE and entertainment if applicable)	$940.00	June 30
Ch. 3, Art. III	Brewery, Winery and On-Premises Consumption Distillery License (must obtain FSE and/or entertainment if applicable)	$525.00	Concurrent with state liquor license
Ch. 3, Art. III	Small Brewery, Winery and Distillery Manufacturing License	$250.00	Effective November 1, 2019; Concurrent with state liquor license
Ch. 3, Art. III	Large Brewery, Winery and Distillery Manufacturing License	$2,000	Effective November 1, 2019; Concurrent with state liquor license

Location in Code	**Description**	**Fee**	**Expiration Date**
	Amusement devices (other than pinball and adult amusements), per device	$153.00	Twelve months or concurrent with state liquor license or with any city license
	Pinball machines, per device	$153.00	Twelve months or concurrent with state liquor license or with any city license
	Adult amusement devices, per location	$978.00	Twelve months or concurrent with state liquor license or with any city license
Ch. 4, Art. III	Entertainment:		
	Single Entertainment Event – Private Property	$50	Per event
	Single Entertainment Event – Public Property	$50	Per event
	Indoor Entertainment	$500	12 months or concurrent with state liquor license or any city license
	Outdoor Entertainment	$700	12 months or concurrent with state liquor license or any city license

Location in Code	**Description**	**Fee**	**Expiration Date**
	Combined Entertainment	$800	12 months or concurrent with state liquor license or any city license
	Expanded Entertainment Addendum	$100	Per event
Ch. 4, Art. IV	Gaming:		
	Beano	$104.00	December 31
	Games of chance (application fee pursuant to section 15-6 only)		
Ch. 4, Art. V	Nudity in licensed businesses	$1,474.00	June 30
Ch. 11, Art. II	Food service establishments (FSE):		
	Temporary FSE:		
	a. Unopened prepackaged food	$93.00	Three months
	b. Opened or nonprepackaged food	$93.00	Per event not to exceed two weeks
	Mobile FSE (Chapter 19) a. pushcarts	$322.00	March 31

Location in Code	Description	Fee	Expiration Date
	b. Food Trucks	$546.00	March 31
	Street vendor cooler storage space – maximum of 7 sq. ft.	$38.00 per 3.5 sq. ft. of space	March 31
	FSE-No food preparation on premises	$181.00	January 31
	FSE-With preparation limited to hot beverages only	$142.00	January 31
	FSE-With beer and wine take out	$415.00	January 31
	FSE/Commissary - Food preparation on premises	$459.00	January 31
	Marijuana Food Processing Establishment	$459.00	Concurrent with marijuana license
	FSE's with liquor:		
	FSE-Class A lounge (Class X)	$2,774.00	Concurrent with state liquor license
	FSE-Class A restaurant (Class I)	$1,873.00	Concurrent with state liquor license
	FSE-Hotel (Class IA)		

Location in Code	**Description**	**Fee**	**Expiration Date**
	FSE-Class A restaurant/lounge (Class XI)	$2,326.00	Concurrent with state liquor license
	FSE-Qualified catering service (Class I)	$1,873.00	Concurrent with state liquor license
	Innholder-15 rooms or less	$1,436.00	Concurrent with state liquor license
	Innholder-16 to 40 rooms	$1,928.00	Concurrent with state liquor license
	Innholder-more than 40 rooms	$2,239.00	Concurrent with state liquor license
	FSE-Spirituous license (Class II)	$611.00	Concurrent with state liquor license
	FSE-Vinous license (Class III)	$410.00	Concurrent with state liquor license
	FSE-Malt license (Class IV)	$824.00	Concurrent with state liquor license
	FSE-Malt and vinous license (Classes III and IV combined)	$906.00	Concurrent with state liquor license

Location in Code	Description	Fee	Expiration Date
	FSE-Nonprofit club (Class IV with catering or Class V without catering)	$737.00	Concurrent with state liquor license
	FSE-Liquor catering	$33.00	Per event
	FSE-Temporary (bona fide nonprofit organization) with any spirituous, vinous or malt license and special entertainment	$65.00	Per 2-day period
	FSE-Auditorium	$584.00	Concurrent with State Liquor License
	FSE-Civic Auditorium	$1,851.00	Concurrent with State Liquor License
Ch. 12, Art. VII	Operation of rendering facilities	263.00	September 30
Ch. 16	Massage establishment	$65.00	September 30
	Combined massage establishment/massage therapist	$55.00	
	Massage therapist	$38.00	
	Conditional massage therapist	$38.00	
Ch. 19, Art. II	Night Street Vendor (must also obtain FSE and street vendor)	$218.00	

Location in Code	**Description**	**Fee**	**Expiration Date**
Ch. 19, Art. III	Transient sellers	$109.00	December 31
Ch. 21	Farmers' Markets on private property	$26 per vendor	March 31
Ch. 23, Art. II	Flea market seller	$22.00	Last day of February
	Flea market Operator	$55.00 $246.00	Per day Annual/March 1st
	Secondhand dealer, junk dealer, pawnbroker[1] (including used cars)	$153.00	December 31
	Junk collector	$26.00	December 31
Ch. 28, Art. IV	Wreckers and vehicle towing	$278.00	June 30
Ch. 28, Art. VII	Valet Parking	$273.00 per location	Twelve months
	Valet Parking Special Event Permit	$64.00	
Ch. 28, Art. VIII	Licensing of Booting of Motor Vehicles	$105.00	October 31
Ch. 30, Art. II	Taxicabs and liveries:		
	Taxicab business license	315.00	April 30
	Livery business license	315.00	April 30

1 Reflects city practice for junk dealers and pawnbrokers.

Location in Code	**Description**	**Fee**	**Expiration Date**
	Taxicab driver's license	79.00	April 30
	Taxi Replacement license	11.00	
	Livery driver's license	21.00	April 30
	Livery replacement license	11.00	
Ch. 30, Art. III	Horse-drawn cabs	210.00, plus 21.00 per driver	April 30
Ch. 30, Art. IV	Bicycle cabs	105.00, plus 21.00 per driver	April 30
Ch.30, Art. V	Tour companies	315.00, plus 32.00 per vehicle/operator operator	April 30
Ch. 35	Marijuana Cultivation – Tier 1	500.00	Twelve months/concurrent with state license
	Marijuana Cultivation – Tier 2	5,000.00	Twelve months/concurrent with state license
	Marijuana Cultivation – Tier 3	10,000.00	Twelve months/concurrent with state license
	Manufacturing – manual	2,500.00	Twelve months/concurrent with state license

Location in Code	Description	Fee	Expiration Date
	Manufacturing - high hazard	5,000.00	Twelve months/concurrent with state license
	Retail Marijuana - medical	5,000.00	Twelve months
	Retail Marijuana - adult use	10,000	Twelve months/concurrent with state license
	Small Scale Marijuana Caregiver	250.00	Twelve months
	Marijuana Testing	1,000.00	Twelve months/concurrent with state license

(b) Fees for licenses to be established by the city pursuant to state law shall be as follows:

Description	Fee	Expiration Date
Amusements, including images; pageantry; sleight of hand tricks; puppet shows; feats of balancing; wire dancing; personal agility; or dexterity	$22.00	Per day
Billiards or pool, per table	$33.00	Twelve months or concurrent with state liquor license or with any city license
Bowling alley, per establishment	$92.00	April 30

Description	**Fee**	**Expiration Date**
Circus	$181.00	Per day
Circus (bona fide nonprofit organization)	$27.00	Per day
Going-out-of-business sale	$104.00	--
Menageries	$22.00	Per day
Motion picture theatres (other than open-air drive-in) operating more than six (6) months:		
Seating capacity 999 or less, per screen	$295.00	June 30
Seating capacity 1,000 or more, per screen	$486.00	June 30
Temporary--One (1) week or less	$33.00	One week
Temporary--More than one (1) week but less than two (2) months	$49.00	Two months
Temporary--More than two (2) months but less than six (6) months	$77.00	Six months
Roller skating rink	$164.00	June 30

(Code 1968, §§ 302.6, 414.1, 414.5, 712.2, 714.6, 714.7, 901.12; Ord. No. 391-72, 7-5-72; Ord. No. 201-74, 4-17-74; Ord. No. 645a-75, 11-17-75; Ord. No. 231-80, 12-22-80; Ord. No. 553-81, § 1, 3-2-81; Ord. No. 554-81, 3-2-81; Ord. No. 576-81, § 2, 3-16-81; Ord. No. 694-81, 5-18-81; Ord. No. 82-81, § 1, 7-6-81; Ord. No. 392-82, 2-1-82; Ord. No. 564-82, 5-17-82; Ord. No. 565-82, 5-17-82; Ord. No. 566-82, 5-17-82; Ord. No. 510-84, § 1, 4-2-84; Ord. No. 591, 5-21-84; Ord. No. 658-84, 5-30-84; Ord. No. 431-85, § 3, 2-20-85; Ord. No. 554-85, 5-14-85; Ord. No. 212-85, §§ 1, 2, 10-21-85; Ord. No. 116-86, § 1, 3-3-86; Ord. No. 551-86, 5-12-86; Ord. No. 189-87, § 2, 12-7-87; Ord. No. 386-88, 5-16-88; Ord. No. 425-89, 5-15-89; Ord. No. 29-89, 6-19-89; Ord. No. 258-90, 2-21-90; Ord. No. 351-90, 5-21-90; Ord. No. 264-91, 3-4-91; Ord. No. 358-91, 5-20-91; Ord. No. 183-91, 12-2-91; Ord. No. 175-92, 3-16-92; Ord. No. 245-93, 3-22-93; Ord. No. 83-93, § 1, 9-8-93; Ord. No. 94-93, 9-20-93; Ord. No. 221-94, § 2, 2-23-94; Ord. No. 314-94, 5-16-94; Ord. No. 229-95, 4-3-95; Ord. No. 34-95, 7-5-95; Ord. No. 264-96, § 1, 5-20-96; Ord. No. 128-98, 10-19-98; Ord. No. 282-99, §2, 5-17-99; Ord. No. 228-00, §1, 5-15-00; Ord. No. 276-01, 5-21-01; Ord. No. 277-01, 5-21-01; Ord. No. 119-01/02, § 6, 12-3-01; Ord. No. 258-01/02, 5-20-02; Ord. No. 260-01/02, 5-20-02; Ord. No. 246-02/03, 5-19-03; Ord. No. 248-02/03, 5-19-03; Ord. No. 180-03/04, 4-7-04; Ord. No.217-03/04, 5-17-04; Ord. No. 68-04/05, 10-4-04; Ord. No. 247-04/05, 5-16-05; Ord. No. 245-05/06, 5-15-06; Ord. No. 227-06/07, 5-21-07; Ord. No. 196-07/08, 4-28-08; Ord. No. 246, 07-08, 5-19-08; Ord. No. 224-09/10, 5-17-10; Ord. No.229-12/13, 5-20-13; Ord. No. 159-12/13, 4-22-13; Ord. 52-14/15, 9-15-2014;)Ord. 246-14/15, 6-24-2015; Ord. 109-15/16, 11-16-2015; Ord. 181-15/16, 3-21-2016; Ord. 180-15/16, 3-21-2016; Ord. 18-17/18, 8-21-2017; Ord. No. 111-17/18, 11-20-2017; Ord. No. 218-17/18, 5-21-2018; Ord. No. 244, 5-20-2019; Ord. No. 285-19/20, 7-15-2019; Ord. No. 25-19/20, 8-12-2019)

Sec. 15-6. Fees.

(a) *Application fees.* Except as expressly provided, all applications for original licenses or for the consent of the city council, other than a flea market seller, temporary FSE or auction license, shall be accompanied by an administrative fee of forty-five dollars ($45.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of thirty-five dollars ($35.00), except for a flea market seller to defray the cost of processing the application. In any case where notice by publication or mail is required, the applicant shall pay the cost of publication and postage in advance. Application fees shall not be refundable.

(i) Applications for any original licenses pursuant to Chapter 35, other than licenses for Small Scale Caregivers, shall be accompanied by an administrative fee of five hundred dollars ($500.00). Applications for renewal of licenses pursuant to Chapter 35, other than licenses for Small Scale Caregivers, shall be accompanied by an administrative fee of two hundred and fifty dollars ($250.00).

(ii) Applications for original Small Scale Caregiver

Licenses shall be accompanied by an administrative fee of fifty dollars ($50.00). Applications for renewal of Small Scale Caregiver Licenses shall be accompanied by an administrative fee of forty dollars ($40.00).

(b) *Appeals fee.* Appeals from determinations of the Permitting and Inspections Department shall be accompanied by a filing fee of twenty-five dollars ($25.00) and the appellant shall also pay the full cost of publication and postage in advance, if such notice is required. For the purposes of this subsection, notice by publication shall be deemed to apply to the hearing on appeal whenever the requirement of publication would exist in the first instance. Appeals fees shall not be refundable except that, upon a successful appeal, the Permitting and Inspections Department shall credit the appeal fee toward the fee for issuance and shall refund any excess.

(c) *Filing fees.* Whenever any document, other than an application for any license, is required or permitted to be filed with the Permitting and Inspections Department in connection with any license, and no fee for such filing is otherwise prescribed, the fee for filing such document shall be two dollars ($2.00) for the first page, and one dollar ($1.00) for each page thereafter. Filing fees shall not be refundable.

(d) *Fees for issuance.* Fees for issuance of licenses shall be as provided in section 15-12. Fees for issuance shall be refundable in the amounts, and under the conditions, as set forth in a policy adopted by the Permitting and Inspections Department.

(e) *Late fees.* An additional fee shall be charged for issuance of any license after expiration of the holder's prior license, unless the application for the renewal license was filed prior to such expiration. The additional fee for issuance or renewal of any license applied for after the applicant has commenced the activity, or has permitted the use of the device to be licensed prior to such issuance, shall be ten dollars ($10.00) or five (5) percent per month of the fee for issuance, whichever is greater, but shall not exceed the fee specified in this chapter for issuance of that license. Late fees shall not be refundable.

(f) *Proration.* The fee for issuance of an original license, unless issued late as provided in subsection (e), and which is issuable on an annual basis, but which when issued will not give the licensee twelve (12) full months use prior to expiration, shall be reduced by ten (10) percent for each full month that licensee will not have the use of the license, but in no case shall the license fee be reduced by more than fifty (50) percent. Notwithstanding the foregoing, there shall be no proration of the fee for excavators' licenses issued pursuant to chapter 25, article VII of this Code.

(g) *Fees to be cumulative.* Fees provided for in this section shall be deemed cumulative and shall be in addition to any other fee or fees required for the issuance of any permit under section 15-12. Where a maximum license fee is established by the state, the fees set by this chapter shall be deemed cumulative to the extent of such maximum fee.

(h) *Refunds where activity subsequently prohibited.* If, during the unexpired term of the license, a licensed activity is subsequently prohibited by amendment to this Code, the Permitting and Inspections Department shall refund to the licensee a portion of the license fee in accordance with the formula for proration of fees set forth in section 15-6(f).
(Code 1968, § 901, 6; Ord. No. 231-80, § 901.6, 12-22-80; Ord. No. 554-81, § 901.6, 3-2-81; Ord. No. 40-82, 6-21-82; Ord. No. 554-85, 5-14-85; Ord. No. 210-85, § 1, 10-21-85; Ord. No. 30-87, 7-6-87; Ord. No. 424-89, 5-15-89;Ord. No. 247-04/05, 5-16-05; Ord. No. 224-09/10, 5-17-10; Ord. No. 203-11/12, 6-4-12; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017)

Chapter 10 FIRE PREVENTION AND PROTECTION*

ARTICLE II. FIRE CODE

Sec. 10-16. Adoption of National Fire Protection Association 1: Fire Code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that a certain code known as the National Fire Protection Association (NFPA) 1: Fire Code (hereinafter referred to as the Fire Code) recommended by the National Fire Protection Association, being particularly the 2018 edition thereof and the whole thereof, and except for such portions as are added to, deleted, modified or amended by section 10-18, of which code not less than one (1) copy has been and now is filed in the office of the city clerk and the same is hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the limits of the city.
(Code 1968, § 321.1; Ord. No. 389-72, 9-6-72; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10; Ord. No. 59-19/20. 11-4-2019)

State law reference(s)--Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.

Sec. 10-17. Definitions.

(a) Wherever the word "municipality" or “city” is used in the Fire Prevention Code, it shall be held to mean the City of Portland.

(b) Wherever the words “authority having jurisdiction” are used in the Fire Prevention Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.
(Code 1968, § 321.2; Ord. No. 389-72, 9-6-72; Ord. No. 564A-72, 9-6-72; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 25-10/11, 8-16-10; Ord. 298-14/15, 7-6-2015)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 10-18. Amendments.

The Fire Prevention Code adopted by section 10-16 is amended, modified and deleted in the following respects:

(a) The following provisions shall be added to the Fire Code as unnumbered sections, and shall amend any provisions of the Fire Code to the contrary:

(1) "In addition to the circumstances under which a fire watch may otherwise be required or allowed by the Fire Code, in the case of structures posing significant life safety risks that may result in the displacement of person(s) a fire watch, with specifications and criteria to be set forth by the authority having jurisdiction, may be instituted if said watch is approved by the authority having jurisdiction in consultation with the City Manager and Corporation Counsel."

(2) All structures with a fire alarm system or fire suppression system shall be provided with a Knox box(es). The number, make and model and location of the box(es) shall be determined and approved by the authority having jurisdiction. All keys required to operate the life safety signaling or fire suppression systems, and building keys, shall be placed within this box.

(b) The following shall be added to section 1.7.7.1:

It shall be a violation of this article for any person either to interfere with or to prevent such inspection.

(c) Section 1.10 (Board of Appeals) shall be deleted.

(d) Section 1.12.2 is deleted and replaced as follows:

All applications for a permit required by the Fire and Life Safety codes shall be filed electronically in the manner, and in such form and detail, as the authority having jurisdiction shall prescribe. Applications for permits shall be accompanied by plans and other documentation in an approved electronic format, as required by the authority having jurisdiction.

(e) The introductory sentence to 1.12.8 is deleted and replaced as follows:

In addition to the permits required by the Life Safety Code, the authority having jurisdiction shall have the authority to issue permits for any of the activities identified in Tables 1.12.8(a),(b), (c) and (d) and the operations listed below.

Permits for the following operations and materials, as described in Tables 1.12.8(a), (b), (c) and (d) shall be required and shall have the following fees:

Operations and Materials	**Permit Fee**
Spraying or dipping of flammable finishes	$174.00 (A)
Aircraft fuel servicing	See Motor fuel dispensing and refueling
Aircraft refueling vehicles	See Motor fuel dispensing and refueling
Automotive fuel servicing	See Motor fuel dispensing and refueling
Carnivals and fairs	$141.00 (A)
Commercial rubbish-handling operation (formerly Bulk Waste Storage)	$174.00 (A)
Cutting and welding operations	$65.00 (D)
Dry cleaning Plants	$65.00 (A)
Display fireworks (also Flame effects and Pyrotechnics before a proximate audience)	$141.00 (B), (C), (D)
Flame effects	See Display fireworks

Operations and Materials	**Permit Fee**
Spraying or dipping of flammable finishes	$174.00 (A)
Flammable and combustible liquids, (other than motor fuel dispensing)	$174.00(A)
Tier I hazardous materials	$65.00 (A), (E)
Tier II hazardous Materials	$263.00 (A), (F)
Hot work	$174.00 (B)
Liquified Petroleum Gasses	$174.00 (A)
Marine craft fuel servicing	See Motor fuel dispensing and refueling
Marijuana growing, processing, or extraction facilities	TBD (G)
Motor fuel dispensing and refueling (also Aircraft fuel servicing and vehicles; Automotive fuel servicing; and Marine craft fuel servicing)	$174.00 (A)
Pyrotechnics before a proximate audience	See Display fireworks
Repair Garages and Service Stations	$174.00 (A)
Lumber Yards and woodworking plants (formerly Woodworking and Lumber Storage Plants)	$174.00 (D)

(f) Table 1.12.8(a) shall be amended to add the following:

Operations and Materials	**Permit Required**	**Cross Reference Section Number**	**Permit Fee**
Blasting operations 1) < 50 cu. yds. 2) Utility trench 3) 50-300 cu. yds. 4) 300+ cu. yds.	For blasting operations.		1)$50 (B), (D) 2)$50 (B), (D) 3)$100 (B), (D) 4)$500 (B), (D)
Certificate of Fitness for Fire Alarm Service and Installation Company	To engage in the business of fire alarm service and installation	1.13.1(3)	$250.00 each
Certificate of fitness for special hazards systems	To engage in the business of special hazards system service and installation	1.13.1(3)	$250 each

Certificate of fitness for marijuana growing, processing or extraction facilities	TBD	1.13.1(3)	TBD (G)
Fire Alarm Inspections Sticker	Acquisition and application of fire alarm inspection stickers	1.12.7	$25.00 each
Special Type Dispensing Systems, other than Flammable or Combustible Liquids		Private and Special Laws of 1917, Chapter 160	$174.00 (A)

(A) Application and license issued through Permitting and Inspections Department after Fire Department review.

(B) Application and license issued directly through the Fire Department.

(C) Equal to fee charged by state.

(D) State license and proof of insurance required.

(E) For quantities of hazardous materials at or above the levels specified in Table 1.12.8, but below the levels required to be reported to the State of Maine.

(F) For quantities of hazardous materials at or above the levels required to be reported to the State of Maine.

(G) No permits may be issued until the City Council adopts licensing for marijuana uses.

(g) Section 13.3.1.2 is amended to add the following:

The authority having jurisdiction shall have power to modify the water supply requirements of this section for individual installations where meeting such requirements are impractical, financial reasons not being a consideration, provided such amended requirements shall not be less stringent than the minimum water supply requirements for sprinkler systems in the State of Maine."

(h) Subsections 13.3.2.7.3(3) and (4) shall be deleted.

(i) Section 13.3.2.8.3, shall be deleted.

(j) In addition to the requirements of 18.2.3, fire department access roads shall comply with the standards set forth in the *City of Portland's Technical and Design Standards and Guidelines, Chapter IV (Public Safety Standards)*.

(k) In addition to the requirements of Section 18.3, fire hydrants shall comply with the standards set forth in the *City of Portland's Technical and Design Standards and Guidelines, Chapter IV (Public Safety Standards)*.

(l) Section 33.1.1 shall be deleted and replaced with the following:

Storage of more than 100 tires outside shall be in accordance with Chapter 33.

(m) The title of Section 33.2.1 shall be deleted and replaced with the following:

Outside Tire Storage Sites and Piles.

(n) Section 33.2.1.1 shall be deleted and replaced with the following:

Individual outside tire storage piles containing more than 100 tires shall be limited in base area to 2,500 ft^3 (232 m^2).

(o) Section 33.2.1.2 shall be deleted and replaced with the following:

The dimension of tire storage piles shall not exceed 10 ft (3 m) in height, 30 ft (9 m) in width, and 30 ft (9 m)in length.

(p) Section 33.2.2 shall be deleted.

(q) Section 33.2.2.1 shall be deleted.

(r) Section 33.2.2.2 shall be deleted.

(s) Section 33.2.2.3 shall be deleted.

(t) Section 33.2.2.4 shall be deleted.

(u) Annex E, Fire Fighter Safety Building Marking System is adopted.

(v) Section 38.3.1 shall be added as follows:

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

(w) Section 38.6.2.4.4 shall be added as follows:

In addition to the continuous gas detection system required by 38.6.2.4.1, at least one gas detection monitor, supervised by a monitored fire alarm system, shall be installed outside of an extraction room. The gas detection monitor shall be installed in accordance with NFPA 72.

(Code 1968, § 321.6; Ord. No. 389-72, 9-6-72; Ord. No. 564A-72, 9-6-72; Ord. No. 117-82, § 1, 8-2-82; Ord. No. 388-92, 5-18-92; Ord. No. 260-96, § 1, 5-20-96; Ord. No. 188-00, § 6, 4-24-00; Ord. No. 228-06/07, 5-21-07; Ord. No. 245-07/08, 5-19-08; Ord. No. 25-10/11, 8-16-10; Order 245-14/15, 6-24-2015; Ord. No. 165-15/16, 3-7-2016; Ord. No. 253-15/16, 7/1/2016; Ord. 18-17/18, 8-21-2017; Ord. No. 217-17/18, 7-1-2018, Ord. No. 218-17/18, 7-1-2018; Ord. No. 59-19/20. 11-4-2019)

MEMORANDUM

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

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

Background

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

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

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

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

Types of Licenses

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

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

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

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

Allocation of Retail Licenses

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

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

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

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

If the application was not complete, the application would be rejected, the application fee forfeited, and the applicant would lose its spot in the first qualified-first licensed queue and would have to reapply. Similarly, if the applicant did not open the retail store within one year, it would lose its spot in the queue and would have to reapply.

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

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

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

Application Requirements

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

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

Certain types of businesses will also require:

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

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

Performance Guarantee

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

Fees

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

To manage this, staff expects to add two staff members in the licensing office to manage applications, renewals, inspections, and complaints. Additionally, we propose to add one health inspector, one code officer, one fire inspector, and one police sergeant, each with specialized training in marijuana related inspections. All of the current inspectors will need additional training in compliance issues for this new industry, as will all of the City's first responders who might be responding to emergencies or other calls at marijuana businesses. There will also be an increase in related overhead, including attorney time for questions and enforcement.

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

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

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

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

Licensee Qualifications

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

Additional Requirements

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

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

Insurance and Indemnification

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

Additional Ordinance Changes

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

CHAPTER 10

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

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

CHAPTER 11

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

CHAPTER 15

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

Health & Human Services Department
Kristen Dow, Director

MEMORANDUM

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

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

DATE: **August 27, 2019**

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

Introduction

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

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

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

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

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

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

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

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

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

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

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

- Required retailer education (and encouraged adjacent non-retailers) - educating retailers of regulations and how to communicate with customers about the product(s), as well as technical assistance on pricing and promotion strategies.
- Accidental ingestion and safe storage education – the Substance Use Prevention Program offers a lock-box loan program and will provide tips for parents to keep their children safe around marijuana, including how to respond in an emergency. This is particularly important, with respect to the 160% increase in calls about children to the Northern New England Poison Control Center since the legalization of recreational marijuana in 2016.[5]
- Brain development education – while marijuana is legal to purchase at the age of 21, a young person's brain is not fully developed until about age 25. Early initiation of marijuana use can have lasting consequences.[6]
- Risks of overconsumption – individuals of all ages can overconsume marijuana and it is important for people to have a firm understanding of marijuana dosing. Additionally, there are steps that can reduce overconsumption, such as labeling requirements and potency caps.

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

Sources

1) *Protecting Public Health and Promoting Equity in Adult Use Marijuana Legalization in Illinois: Recommendations for Policy Makers*. Illinois Public Health Institute. November, 2018 http://iphionline.org/wp-content/uploads/2018/12/Public-Health-Equity-Framework-Paper-FINAL_formatted.pdf

2) *Colorado Retail Marijuana: Education & Prevention Resource Guide*. Colorado Department of Public Health & Environment. https://www.colorado.gov/pacific/sites/default/files/MJ_RMEP_Resource-Guide.pdf

3) *The Implications of Marijuana Legalization in Colorado*. Journal of the American Medical Association. January, 2015. https://jamanetwork.com/journals/jama/article-abstract/2022370

4) *Understanding Drug Schedules*. healthychildren.org. 2019. **https://www.healthychildren.org/English/ages-stages/teen/substance-abuse/Pages/Controlled-Substances-Not-Just-Street-Drugs.aspx**

5) *Poison Control Calls for Kids up 160% Since Recreational Marijuana Legalization*. WGME. August, 2019. https://wgme.com/news/marijuana-in-maine/poison-control-calls-up-160-since-recreational-marijuana-legalization?fbclid=IwAR0TpIwwK7oOhMeUledN7iR-e-rZKW3_8vQPBohr2KVLTvYfwb1oQsuUVDk

6) *Brain Development, Teem Behavior and Preventing Drug Use.* Partnership for Drug-Free Kids. https://drugfree.org/article/brain-development-teen-behavior/

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

Public Health
Prevent. Promote. Protect.
Portland Public Health Division
City of Portland, Health and Human Services Department

SUBSTANCE USE
PREVENTION RESOURCES

The Teenage Brain:

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

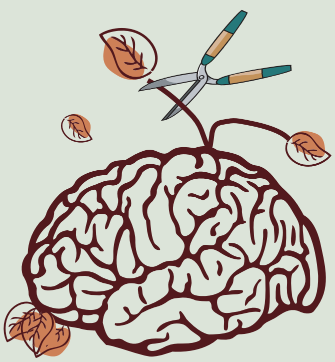
Who is this child?

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

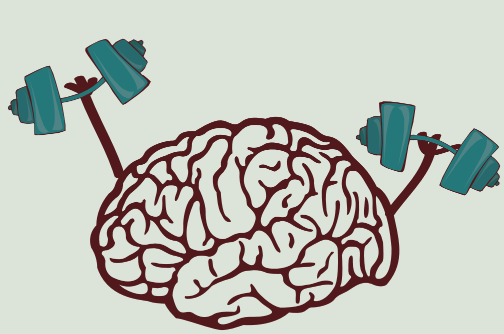
Sound familiar? You must be the parent of a teenager!

What is really going on?

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



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



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

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

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

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

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

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

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

Add drugs and alcohol to the mix?

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

Alcohol

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

Prescription Medications

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

Marijuana

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

What Can I Do?

Remember That:

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

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

Set Limits and Stay Connected:

Know the facts.

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

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

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

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

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

last revision: 03.01.18

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

MAINE PREVENTION SERVICES

Maine Center for Disease Control & Prevention
Department of Health and Human Services

PORTLAND PUBLIC HEALTH

Safety Considerations for Marijuana Use

Marijuana consumption is prohibited to anyone under 21 years old.

THC is the chemical in marijuana that makes a person feel high.
Start low: a single serving of 5 mg THC or even less.

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

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

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

Public Health
Prevent. Promote. Protect.
Portland Public Health Division

PORTLAND PUBLIC HEALTH

Safety Considerations for Marijuana Use

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

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

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

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

CONTAINS THC
NOT SAFE FOR KIDS OR PETS

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

Health & Human Services Department
Kristen Dow, Director

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Sources

1) *Protecting Public Health and Promoting Equity in Adult Use Marijuana Legalization in Illinois: Recommendations for Policy Makers*. Illinois Public Health Institute. November, 2018 http://iphionline.org/wp-content/uploads/2018/12/Public-Health-Equity-Framework-Paper-FINAL_formatted.pdf

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6) *Brain Development, Teem Behavior and Preventing Drug Use.* Partnership for Drug-Free Kids. https://drugfree.org/article/brain-development-teen-behavior/

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The Teenage Brain:

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

Public Health
Prevent. Promote. Protect.
Portland Public Health Division
City of Portland, Health and Human Services Department

SUBSTANCE USE
PREVENTION RESOURCES

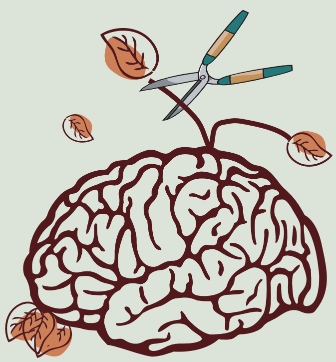
Who is this child?

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

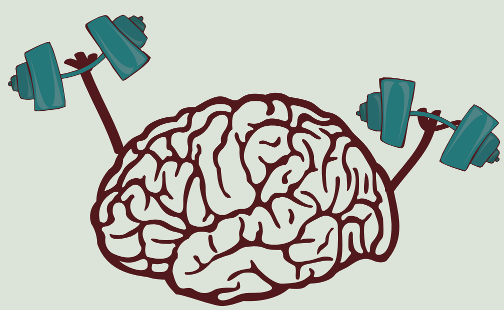
Sound familiar? You must be the parent of a teenager!

What is really going on?

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



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



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

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

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

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

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

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

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

Add drugs and alcohol to the mix?

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

Alcohol

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

Prescription Medications

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

Marijuana

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

What Can I Do?

Remember That:

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

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

Set Limits and Stay Connected:

Know the facts.

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

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

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

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

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

last revision: 03.01.18

MAINE PREVENTION SERVICES

Maine Center for Disease Control & Prevention
Department of Health and Human Services

PORTLAND PUBLIC HEALTH

Safety Considerations for Marijuana Use

Marijuana consumption is prohibited to anyone under 21 years old.

THC is the chemical in marijuana that makes a person feel high.
Start low: a single serving of 5 mg THC or even less.

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

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

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

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PORTLAND PUBLIC HEALTH

Safety Considerations for Marijuana Use

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

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

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

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

Public Health
Prevent. Promote. Protect.
Portland Public Health Division

CONTAINS THC
NOT SAFE FOR KIDS OR PETS

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

MEMORANDUM

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

INTRODUCTION

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

This memo addresses the following topics:

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

ANALYSIS

1. Method of Allocating Retail Licenses - Weighted Lottery

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

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

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

2. Cap on Number of Retail Stores

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

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

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

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

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

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

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

> **Massachusetts** - Some Massachusetts jurisdictions have adopted their cap relative to the number of liquor store licenses, setting it specifically at 20% of the number of liquor stores.
>
> **Washington** - The State of Washington had originally allocated the number of retail licenses in each larger municipality, with an additional amount allowed for the remaining towns in a given county. After a study in 2015 of the estimated distribution of the marijuana market, the state adjusted its caps upwards to the current standards.
>
> **Denver, Colorado** - Denver originally had no caps on stores when its adult-use industry became legal in 2014. By the end of 2015, however, Denver identified the proliferation of marijuana stores, particularly in more economically disadvantaged neighborhoods, as a concern, along with significant neighborhood complaints. In 2016, the Denver City Council voted to adopt caps on both growing operations and retail stores.
>
> **Fort Collins, Colorado** - To determine the cap on medical retailers, Fort Collins determined their cap relative to the number of medical patients. Their cap is set at one retail store for every 500 medical patients, for a current total of nine licenses (not including existing stores at the time of legislation). Only medical licensees are allowed to convert to adult use licensees.

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

Staff is also proposing to add in “grandfathering” language for medical retail stores or dispensaries that are currently operating in the City, so long as they do not apply to change to an adult use facility. This provision is limited to <u>only</u> those locations with an approved change of use permit or site plan approval. Building permits, certificates of occupancy, or other types of permits or approvals will not be sufficient to grandfather in a store. As written, this provision may have the effect of slightly increasing the total number of retail stores and/or dispensaries operating in the City above the proposed 20.

3. Separating manufacturing

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

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

4. On-premises consumption of food items

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

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

If the Council chooses to remove this ban against on-premises consumption of any products, it will be practically impossible for staff to enforce the prohibition against on-premises consumption of marijuana products. On-premises consumption of marijuana products is prohibited at the state level, and also carries an increased risk of public and health risks, as outlined in the memo from the HHS Department.

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

5. Educational requirements

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

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

6. Plants per cultivation tier

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

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

7. Dispensaries

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

8. Landlord permission

The ordinance originally stated that applicants would need to submit notarized, written permission from the landlord. Staff has added an alternative to that requirements, allowing an applicant to provide a copy of a fully executed lease agreement that specifically states the space may be used as a marijuana business.

9. Testing accreditation

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

10. Security Requirements

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

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

11. Fee Schedule

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

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

In addition, the City will add another police sergeant, whose time will be dedicated approximately 50% to the marijuana licensing program for a cost of $51,760. Public Works and Corporation Counsel's Office are planning to absorb the additional work into their departments without adding staff. The DPW costs of reviewing applications and inspections for solid waste and wastewater are estimated at $10,060 (10% of a coordinator's time), while the value of Corporation Counsel's Office is estimated at $22,650 (15% of an attorney's time) (which will significantly increase with any litigation over licensing decisions).

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

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

12. Changes to other Code provisions

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

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

  Sec. 2.5-19. Direct connections to police department.
  Except as otherwise specifically provided in this code, no~~No~~ alarm user shall maintain any direct connection from an alarm system to the communication center of the police department.

Sec. 2.5-20. Automatic dialing devices.
Any alarm system may be connected to any central station by an automatic dialing device, but no such device shall connect any alarm system to the communication center of the police department, except as otherwise specifically provided in this code.

- **Chapter 10 -** Staff is recommending an amendment to Chapter 10 to require that all manufacturing facilities be sprinkled, other than those using only CO_2 and nonhazardous extraction processes.

  Section 38.3.1 shall be added as follows:
  For other than CO2 and nonhazardous extraction process, any facility conducting marijuana extraction shall be protected throughout with a NFPA 13 sprinkler system.

- **Chapter 11** - Staff is recommending adding an additional class of food license solely for manufacturing marijuana.

- **Chapter 15 -** Amendments to Chapter 15 will incorporate the final licensing fees, as well as the application fees. Initial application for all license classes other than small scale caregivers are proposed to be $500 and renewal application fees are proposed to be $100. Small scale caregiver application fees will be commensurate with existing application fees of $45 for initial and $35 for renewal.

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.

CITY OF PORTLAND
Executive Department
Jon P. Jennings, City Manager

MEMORANDUM

To: **Members of the Economic Development Committee and Health & Human Services Committee**

FROM: **Jon P. Jennings**
City Manager
JPJ

DATE: **January 28, 2020**

RE: Draft Proposal of the Scoring Rubric for Retail Marijuana Licenses

After reviewing with staff the alternative scoring matrix for the allocation of retail store licenses that was proposed at the last HHS/EDC meeting, I provide this feedback on potential implementation concerns.

One of the things that the Staff Working Group was attempting to accomplish with the matrix in the draft Chapter 35 for allocation of retail licenses was to keep all the points as objective as possible and to avoid subjectivity, which could open the City up to challenge. We wanted the points to be granted on verifiable facts and not personal perspectives or opinions on the value of certain aspects of applicants' proposals.

There are two concerns with the matrix that was presented at the last committee meeting. First, it had criteria for awarding of points that are more difficult to quantify objectively. Second, it awarded points if the applicant submitted completed applications/plans, which would be redundant of the language already in the proposed ordinance that would require a complete application before being considered for licensing. The Licensing Office will not accept any application that is incomplete, therefore we would only be accepting a 10 for the majority of the categories.

With respect to the specific categories in the alternative matrix, these concerns are

Category 1: Basic Operations gives points for having a clear application ranging from 1 to 10. Sections 35-14, 35-25 and 35-42 in the draft ordinance clearly define what is required for an application to be considered complete and the majority of the bulleted points in this category are listed in the draft ordinance.

Category 2: Security Plan gives points for having a clear plan ranging from 1 to 10. The description of what is required in a security plan is listed in section 35-35 of the proposed order, and will be further detailed in regulations. The Police Department will be meeting with the applicant to review the confidential plan after it has been submitted and accepted for review. To be accepted, the majority of the bulleted points would have to be in the 10 point column.

Category 3: Community & Public Health Impact gives points for submitting a plan for hiring creating new jobs, wages, employee trainings and interaction with the Community. This would be a subjective analysis on what staff deems the right number of jobs would be to grant 10 points.

The City also, does not track new positions and if they applicant did not follow through with their proposal would a license be revoked? The same can be said about wages and benefits, staff would have to give points on what they think.

Category 4: Experience and Timeline gives points for previous business experience, list of violations and expected opening date. The rubric in the draft ordinance already assigns points for both operating a business in Maine with no violations or experience operating a marijuana retail store in Maine or another state. The State also has a one year deadline to open a retail store before the applicant would need to reapply, so timelines are fixed to 365 days.

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. However,~~, except for~~ retail and dispensary licenses shall be~~, which are~~ transferable ~~only~~ in accordance with Sec. 35-42 until~~. However retail and dispensary licenses shall no longer be transferab~~ the effective date of federal legislation allowing federally regulated financial institutions to serve marijuana businesses, or the removal of the cap on marijuana retail stores and dispensaries in Sec. 35-42(i).

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 and economically disadvantaged individual(s), as defined further by regulations to be promulgated by the City Manager based off of~~by~~ the Small Business Association Section 8(a) regulations~~regulations; women; veterans; and/or individuals who immigrated to the United States within the previous ten years~~.	+1

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

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 evide

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. <u>Grounds for suspension.</u> 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. <u>Length of suspension.</u> 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. <u>Grounds for revocation.</u> 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 or its third party designee for securing cash and all marijuana product packaged for sale as further detailed in regulations to be promulgated by the City Manager~~Police Department~~. Regulations shall require facilities sufficient to provide for the safety of employees and the public, and to prevent employee and third party theft and diversion.

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. <u>Hours of operation</u>. 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. <u>Age restrictions</u>.

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. <u>On-premises consumption of any products</u>. The sale of food or beverages, whether they contain marijuana or not, for on-premises consumption is prohibited.

d. <u>Other uses prohibited.</u> 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. <u>Education requirements.</u>

   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. <u>Fixed location sales only</u>.

   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.

k. Transfer of retail and dispensary licenses. The ownership of a retail or dispensary licensee may only be transferred subject to the following limitations:

1. No more than 25% of the ownership interests in a licensee may be transferred in any five-year period.

2. Any transfers of interest in a retail or dispensary license occurring before January 1, 2025 must not impact any of the licensee's points calculated under Sec. 35-13(f)(4).

3. Any new owners must meet all requirements of this Chapter and be approved by the State of Maine.

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.

MAINE CRAFT CANNABIS ASSOCIATION

January 7, 2020

To the Portland City Council Committees on Economic Development and Health and Human Services and Public Safety,

My name is Mark Barnett. I own Higher Grounds in the Old Port, I am a prospective adult-use retail licensee and I work with the Maine Craft Cannabis Association, a diverse community of independent cannabis professionals and enthusiasts committed to building and promoting an authentic craft cannabis industry in Maine through sound, sensible public policy and responsible business practices. I use the term 'marijuana' herein to avoid confusion with cannabis that contains very small amounts of THC and is legally considered 'hemp'.

We would like to thank City staff for all of their hard work on these thorny issues and the care they have taken to look out for the interests of Portland's residents and businesses.

Still, we are dismayed at the direction that Portland's proposed ordinance has taken and the degree to which it disadvantages small businesses, whether intentionally or not, and to which it contributes to stigmatization of a safe substance that has been legalized in the state of Maine. This is disappointing in light of the high degree of support Portland's citizens have consistently shown for a liberal approach to marijuana. We are concerned that Portland's rules may throttle Maine's dynamic small businesses and block them from legally participating in the economic opportunity offered by legalization. Further, we vigorously dispute assertions that legal, licensed cannabis businesses present a risk to the public health.

Legal, transparent marijuana markets are an improvement to public health and safety, not the other way around. Legalizing the commerce of marijuana does not increase youth use, crime, or pose any other serious risk to the public health. In fact, legal medical markets and adult use markets may potentially improve certain public health and safety outcomes including things like opioid overdoses and even workplace deaths[1,2]. We have submitted supporting studies and other material along with these comments that we hope the Council will take into consideration.

We believe the City wants to support Maine-grown, small businesses and create a viable, competitive legal market. **Below, we summarize the key issues we have found with the ordinance as proposed.**

- <u>The Cap:</u> Creating an explicit cap on the number of retail locations within Portland is anti-competitive, unfair and unnecessary. We believe the City should reject this model and, instead, utilize already existing zoning, sensible safety measures, and the basic qualification parameters which, combined with the economic obstacles of starting up a marijuana business, will already limit the number of participants.

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- Scoring: If the City *does* use a cap, the scoring should reflect the most logical and equitable reflection of who should be given entry into the market – including points given to established, licensed caregivers; established, licensed Portland business owners; populations most impacted by the drug war and socially and economically disadvantaged; and businesses that not only will promise inclusive hiring and progressive workplace values but already embody them.
- Transferability: If there must be a cap, licenses should be allowed to follow the licensee, rather than be locked to a specific individual property. Property owners already hold enormous power.
- Raising of capital: We suggest the Council allow sales of ownership up to 49% and only block changes in control or transactions not compliant with licensing criteria in order to promote the survival of smaller businesses not linked to highly resourced, multi-state operators.
- Limits on products or revenue streams: We urge the Council to allow sale of other legal products rather than reward marijuana only businesses, including non-marijuana consumables which pose no threat to public safety. The City should instead follow state regulations.
- Unnecessary, huge costs with no justification in public safety. We urge the Council to only impose mandatory regulations that A) demonstrably promote public health and/or safety and B) are cost-effective. By a rough estimate, the current ordinance proposal adds more than $200,000 to the capital required for a fairly small project, with that figure escalating for larger cultivation and extraction and processing projects. Performance guarantees, demonstration of liquid assets and product safe requirements are of particular note in terms of high costs with little to no benefit to public health and safety.

For more detail:

The Cap

1. **Caps are anti-competitive, unfair and unnecessary** in a business as competitive, complex and difficult as marijuana, where even obtaining real estate is extremely difficult for most businesses. From a business perspective, competition drives better outcomes for everyone — particularly consumers – except for entrenched monopolies. Caps 'create' the need to establish arbitrary licensing criteria that dramatically stifle businesses' ability to operate—without providing any demonstrable benefit to the public. *We recommend the City Council reject the cap.*

2. **The justification for the cap—that Portland will be overwhelmed with marijuana stores—does not seem supported by evidence from markets where licenses have not been capped** (see attached PDF)[3]. Without caps, per-capita penetration of marijuana stores isn't markedly higher than the proposed 20 in Portland. For example, Portland OR has 28.4 shops per 100,000 people; Denver has 25.5; Seattle has 8; Anchorage has 9. And the state has seen far fewer license applications than anticipated. If Portland can't support the number of stores that attain

licenses, many of those will exit the business and existing stock will have been invested in and revamped for other retail uses. Business turnover happens all the time.

3. **Fears of 'risks to public health' and other fiscal and associated costs of legalization are a misplaced legacy of the Drug War.** The U.S. Substance Abuse and Mental Health Services Administration (SAMSHA) observed that teen use of marijuana continues to decline[4], and numerous studies have found that following legalization (medical and adult use), teen use declines[5,6]. Adult Mainers have been and continue to use marijuana[7] without material public harm and the dangers of youth use are best addressed by driving sales to the regulated market with a fair playing field for licensed businesses that enforce age (and quality) requirements.

4. **With a cap, the City artificially creates the 'secondary' license market driven by the highest bidder rather than by normal market forces of product quality, customer service, responsible participation in the market and community, etc.** Without a cap, marijuana licenses are just like any others (except much harder and more expensive to obtain and maintain).

<u>The proposed scoring system</u>

1. **Scoring by its nature (both in terms of category choice and how much to allocate) is fairly arbitrary and subjective.** We recognize that some standards are necessary, but as there are already many of these embedded in marijuana operations, the better approach would be to allow those factors to unfold as long as certain objective safety, location, and secondary impact standards are met.

2. **As proposed, the system unfairly awards points for maximum distance from schools despite no research on this factor being correlated to youth use.** Even by staff's calculation a facility could gain more than 4 points from its proximity to schools—4 times the weight of any other category. That item alone could mean Portland has 20 licensed shops on the outskirts of town. Distance from a school is already a minimum qualification for licensure. <u>*We recommend at least limiting this to +1 point.*</u>

3. **Maintain provisions supporting social and economic equity that are inclusive in acknowledging inequality and social and economic disadvantage.** City staff has acknowledged the importance of incorporating social and economic justice into a scoring framework. Still, the Federal government's standards for such status, as in other areas of Federal law and rule, discriminate against so-called 'sexual' minorities that experience heightened levels of social and economic injustice in American society. Simply adopting that standard will continue that bias against sexual minorities.

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4. **The current timeframe for certain factors was changed without justification in ways unfair to newer, but established Portland businesses.** In the previous draft, a prospective licensee would be awarded a point for operating a licensed business in the City of Portland for two years or more without violations. This latest draft increased that number to 5 years without explanation. Why was this change made? We understand that the City wants to see some modicum of business experience with its licensees, but this change seems designed to deliberately exclude certain businesses. *We recommend that +1 point be awarded as originally proposed - for 2+ years of operation without violations. If the lookback window is extended, it should focus on safety, pesticide use, and treatment of labor.*

5. **Points to dispensary operators provide more favoritism to an already privileged class. This isn't accompanied by parallel points awarded to licensed caregivers in good standing.** Near-monopoly control of marijuana sales for nearly a decade is enough advantage. Without some consideration of participation in the medical marijuana industry outside of dispensaries, this flies in the face of the avowed desire to promote economic fairness and to protect access for Mainers – especially those who have been working to provide medical cannabis as small operators throughout the state. *We recommend either no credit for dispensary experience or that +1 point be awarded for either: 2 years of experience running a licensed dispensary OR 2 years of an active caregiver license of any kind in good standing.*

6. **If the City wants to support Maine citizens, follow the state's residency rules and award a further point for a Maine birth certificate.** Many of the other scoring elements will be very difficult for most Mainers to achieve given either their exclusive nature or their high cost. If we must score, then help offset the challenge to small Maine-based businesses with these.

7. **Remove the requirement for demonstrating $150,000 in liquid assets.** We believe that the already significant cost and barriers to entry of developing a viable, licensed marijuana retail business combined with the byzantine compliance requirements and rules are plenty sufficient to 'cull the herd', to put it bluntly. Think of how difficult (or expensive) it will be for a licensee to secure that additional funding knowing they could have 50% odds of application failure. If this were common practice for business licenses, it might seem less out of place.

Transferability

1. **The City is considering barring licensees from moving locations** – interfering with portability of their business and locking them into one location. Licenses should be allowed to be geographically transferable, otherwise, the City is simply handing the keys to the retail marijuana industry over to property owners. *We urge the Council to at least permit geographic transfers of licenses where the new location meets all zoning and licensure requirements.*

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2. **It is the licensee that has been evaluated for a license, including onerous background checks, financial assurances, fees and more - not the owner of the building.** If at the end of a lease a business must choose either to perish or pay triple or even five times previous rent—not to mention accept any number of anti-tenant clauses, financial commitments, and the like—then legal marijuana in Portland will just be a cash piñata for landlords.

Limits on the raising of funds

1. **Capital formation is the key to business growth and the key to small businesses competing with large, multi-state operators.** The City proposes to limit retail stores to being able to raise less than $50,000 per year (based on a valuation of $500,000) - this is equivalent to the cost of adding just one new management position--or to $125,000 over the course of five years. *We urge the Council to allow sales of ownership up to 49% and only block changes in control, reviewing any new investor and resulting entity under the same standards applied during licensure, just as the state will have done .*

2. The comparison that has been made to alcohol licenses is fundamentally inaccurate. Alcohol businesses pay normal taxes on profits; retail marijuana businesses can pay well upwards of 50% of pre-tax profits in federal income taxes alone[8,9]. Marijuana operations are very strictly regulated particularly for adult use businesses, with onerous packaging, tracking, personnel, security, and a dizzying array of other compliance costs that other businesses—including liquor licensees—don't suffer. Further, most marijuana business cannot raise bank debt—period. The Senate's deep resistance to reforming the status of marijuana for banking[10] is proof that we should not expect profound change anytime soon. Meanwhile, larger, multi-state operators have already raised hundreds of millions of dollars and will find no complaint with ever-increasing capital demands. Closing off the ability to raise money to support difficult periods or, conversely, investments in growth and improving operations could be a recipe for disaster for all but the wealthiest businesses.
The State of Maine has prioritized 'control' of a license in its regulatory framework. The City could do the same, limiting the sale of a stake in a licensee's capital to 49% and requiring no change in control. Transactions and resulting entities would have to meet the same standards that initial applications do. This would at the very least provide a little more flexibility for operators to survive in a difficult operating environment without compromising City goals.

Limits on products or revenue streams

1. **The City should permit marijuana businesses to have diverse revenue streams as there is no public health or safety justification for discouraging this commerce.** This is a business where entrants must be ID'd and over the age of 21, all activity is monitored by video surveillance, and all marijuana products have extensive and onerous packaging requirements, so the risks – if

there are any – are highly mitigated. In a business with so many ancillary costs, diversity may be vital to survival. *We recommend removing the +1 for a 'cannabis-only' business plan.*

Buffer zones

1. **Buffer zones are anti-competitive and will indubitably lead to lawsuits that could jeopardize the program and cost the City substantial sums to defend.** We respect the desire to prevent clustering of similar businesses in order to preserve the diverse feel of Portland's neighborhoods, but we again highlight just how difficult it is to obtain real estate in the first place to even try and apply for a license. Furthermore, because the City has permitted certain actors, 'bad' behavior could ultimately be rewarded by 'stealing a jump' on an area where numerous other businesses would vie for the ability to be licensed and to compete. Those latter could be forgiven for considering their own legal recourse should that situation prevent them from qualifying for licensure. Is 250' based on a desired dispersion rate map or is there a better way to calculate what this number should be? We feel it could be lower without jeopardizing the City's desire to preserve neighborhood diversity. *We recommend striking the buffer zone entirely.*

Requiring leaflets and stickers above that required by the state

1. **Requiring leaflets and stickers above the labeling already required by the state is unnecessary, costly, and environmentally irresponsible.** At a time when we are banning single-use plastic straws and plastic bags (which we ardently support), the City should avoid creating hundreds of thousands of leaflets or (not functionally possible) stickers on products to advertise the heinous dangers of marijuana usage when there are already very, very onerous packaging and labeling requirements for marijuana products in Maine. By one estimate, discarded paper and paperboard already make up over 25% of solid municipal waste[12]. *We recommend requiring instead that shops display any health warning language prominently by the point-of-sale.*

Visibility of marijuana leaf

1. **The proposal to prohibit viewing of a marijuana leaf from outside of the building has not been credibly tied to discouraging underage consumption.** *We recommend removing this entirely.*

Burdensome, unnecessary costs

1. **The proposed ordinance adds unnecessary costs that will further jeopardize survivability of smaller businesses and ultimately reduce revenue to state and municipal coffers.** The state and now the City are adding substantial onerous costs of compliance and restrictions on operations that could knock smaller players out of a market that will be nowhere near as lucrative as the City seems to believe. The assumption that licenses will be lucrative seems to

drive much of the regulatory conversation—but it is a false one. According to the Marijuana Business Daily Industry Factbook for 2018, less than 40% of retail 'recreational' marijuana stores are profitable[11] (slightly higher for medical, skewed by the monopolistic regulation of most medical markets), and 20-30% make annual losses. Most buyers of marijuana are rational economic actors who will go to the state's readily available, low risk, unregulated and untaxed market if costs in the legal market are too high, or to the markets outside of Portland delivering into the city.

2. **Requiring all marijuana to be stored within a safe if not on shelves is entirely impracticable for numerous reasons of both size and sanitary storage for refrigerated or frozen items.** Requiring product not on shelves be stored behind a second locked security door is absolutely sufficient given extensive other security requirements, particularly video surveillance and remotely monitored entry. We agree that strict cash security measures should be followed, and it is reasonable for the City to require such measures though it's nearly 100% likely that an operator would willingly do so on their own. The new proposed language effectively mandates an 8"-reinforced-wall vault, which could easily cost upwards of $20,000 for the construction of 'vault' walls and a door. What is the risk to public health? What are storage requirements for much more 'dangerous' shops like pharmacies and liquor stores? *We recommend that the Council require a second locked security door only, and that where necessary product be required to be stored at appropriate sanitary temperature.*

3. **Requiring two persons per vehicle while conducting any remote marijuana operations is costly, onerous and does not improve public health or safety.** Do we mandate that businesses in any other area maintain specific staffing levels? Does a second person make a delivery vehicle safer? If an attempted burglary occurs, that second employee will just be another person who is instructed to do nothing to risk their own safety for liability purposes. This adds at least $25,000 per year to staffing costs. Will this be enforced on delivery businesses from outside of Portland which will be operating with much lower overhead? *We recommend removing this entirely.*

4. **Requiring cameras on vehicle interior *and* exterior for marijuana vehicle operations ignores the reality that if a violation is going to be committed, the offending individuals would simply step off camera.** *We recommend removing this entirely.*

5. **Forced payment for city use of third party professionals—some of which might have marijuana lobbying or consulting operations—could be a black hole for a project of and seems ripe for abuse.** We recognize the City is looking to protect itself and citizens from costs of this program—but there should be limits on out of pocket expenses. Such fees could easily run into the thousands for a small project and into the tens of thousands for a larger project. Prospective licensees won't even be assured of licensure, adding to the already high price tag of even vying for a license in the city of Portland.

MAINE CRAFT CANNABIS ASSOCIATION

6. **Performance guarantees privilege the wealthy at the expense of the entrepreneur.** Do we ask for them for breweries? Food packaging plants? Energy projects? What is the risk to the public health? This is another area of project cost that could run into the many tens of thousands for larger projects. Further, the largest projects currently in Portland appear to have been grandfathered in and aren't required to provide such, creating a highly unequal playing field. *We recommend striking these entirely. In the worst case, if performance guarantees remain, these funds should at least count towards any demonstration of 'liquid assets' that the City requires. Otherwise, these two pieces combined could represent $200,000 in capital producing no return for a retail business. This is an impossible standard for most.*

We hope that our comments have made clear to the Council our deep concerns with this process and the proposed ordinance. Portland and its residents are faced with a once-in-a-lifetime opportunity for hardworking, passionate, and responsible citizen entrepreneurs. We urge the Council to take advantage of this golden opportunity by rejecting the proposed regulations that would cripple the ability of many of the most knowledgeable, conscientious and hardworking Mainers to participate.

By no means do we support an unregulated, unsafe, or untaxed 'marijuana' industry—we recognize there are serious public policy concerns at play and do not wish to diminish these in the conversation. But it is our view that we in fact go backwards when we overregulate and restrict a commerce that is already happening everywhere around us with little to no oversight. How can bringing this industry 'into the light' be more of a public health risk? Decades of drug policy research fly in the face of that argument.

We extend to all members of City government the invitation to engage on these issues we have highlighted and hope that a robust debate will bring us to a better place. We are all operating in good faith here, but the City risks generating public rancor, controversy, and legal liabilities if it seeks to limit too aggressively to restrict this opportunity.

There is a better way—let the market, and the residents of and visitors to of our great City, who are its customers, decide.

Sincerely,

Mark Barnett

M A I N E
CRAFT CANNABIS
A S S O C I A T I O N

REFERENCES

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11. Attached PDF – profitability
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INTERNAL REVENUE CODE SECTION 280E:
CREATING AN IMPOSSIBLE SITUATION FOR LEGITIMATE BUSINESSES

What is Section 280E?

Section 280E of the Internal Revenue Code forbids businesses from deducting otherwise ordinary business expenses from gross income associated with the "trafficking" of Schedule I or II substances, as defined by the Controlled Substances Act. The IRS has subsequently applied Section 280E to state-legal cannabis businesses, since cannabis is still a Schedule I substance.

A throwback from the Reagan Administration, Section 280E originated from a 1981 court case in which a convicted cocaine trafficker asserted his right under federal tax law to deduct ordinary business expenses. In 1982, Congress created 280E to prevent other drug dealers from following suit. It states that no deductions should be allowed on any amount "in carrying on any trade or business if such trade or business consists of trafficking in controlled substances."

With 23 states and the District of Columbia now allowing some form of legal marijuana, 280E is applied to state-regulated cannabis businesses more often than it is to the types of illegal drug dealers that the provision was intended to penalize.

How does Section 280E hurt state-legal cannabis businesses?

Federal income taxes are based on a fairly simple formula: start with gross income, subtract business expenses to calculate taxable income, and then pay taxes on this amount. Owners of regular businesses often derive profits from these business deductions.

Cannabis businesses, however, pay taxes on gross income. These businesses often pay tax rates that are 70% or higher. As John Davis, owner of the Northwest Patient Resource Center in Seattle, WA states, "I'm taxed on nearly double the amount that my business actually makes."

"I'm taxed on nearly double the amount that my business actually makes."

– John Davis, Northwest Patient Resource Center

Below is a simplified model that illustrates the tax structure for cannabis businesses compared to a normal businesses. In this scenario, the normal business's taxable income is $150,000, while the cannabis business is taxed on $350,000, despite having the same costs and expenses.

	Non-Cannabis Business	Cannabis Business
Gross Revenue	$1,000,000	$1,000,000
Cost of Goods Sold	$650,000	$650,000
Gross Income	$350,000	$350,000
Deductible Business Expenses	$200,000	$0
Taxable Income	$150,000	$350,000
Tax (30%)	$45,000	$105,000
Effective Tax Rate	30%	70%

The taxation problem facing cannabis businesses just got worse.

> ***"There are a lot of businesses that are going to get absolutely creamed."***
>
> ***– Jim Marty, Bridge West CPAs***

In January 2015, the Internal Revenue Service issued an internal memorandum that opined on how state-legal cannabis businesses should compute federal income taxes. Drafted by the IRS Chief Counsel, the memo rejects many of the tax deductions that these businesses have traditionally made. The memo challenges tax strategies that allow these businesses to stay afloat, and imposes a strict interpretation of Section 280E of the Internal Revenue Code. Without even the meager deductions state-legal cannabis businesses were previously allowed to take, these businesses face a bleak financial future. This deeply affects their ability to reinvest profits back into their local communities and fulfill the will of state voters, legislatures, and regulatory bodies that have mandated that cannabis be dispensed through legal storefronts.

Jim Marty, a CPA with Colorado's Bridge West CPAs, says that many marijuana businesses are going to struggle under the new rules. "There are a lot of businesses that are going to get absolutely creamed," he says.

What types of business expenses are scrutinized under 280E?

- Employee salaries
- Utility costs such as electricity, internet and telephone service
- Health insurance premiums
- Marketing and advertising costs
- Repairs and maintenance
- Rental fees for facilities
- Routine repair and maintenance
- Payments to contractors

State-legal cannabis businesses are allowed to deduct the Cost of Goods Sold (COGS) on their taxes. Also, since 2007, cannabis businesses have made deductions on their non-cannabis business activities. Most importantly, however, cannabis businesses have also followed guidance from section 263A of the IRC, which allows businesses to capitalize on indirect costs — such as administrative and inventory costs, as well as the amount paid in state excise taxes — and deduct them under COGS.

Depending on the business, these indirect costs can be sizable. The strategy of including these costs in COGS is oftentimes what allows cannabis businesses to collect meager profits.

What deductions are now likely to be challenged?

- General and administrative costs (bookkeeping, legal expenses, technology costs)
- State excise taxes
- Storage of cannabis
- Purchasing cannabis
- Depreciation of cannabis

How did these deductions benefit cannabis businesses?

Attached below are three documents that illustrate how 280E has applied to typical cannabis businesses both before and after the tightening of IRS rules.

Figure 1 is a 1065 tax filing from 2013 from a medical cannabis business in Denver, Colorado. Gross receipts totaled $776,772, and thanks to some strong work by a CPA, the business was able to deduct $435,819 in Cost of Goods Sold, leaving a gross income of $340,953. The business had an additional $153,806 in deductions that any other business would be able to take, but were disallowed under 280E. Since the business was allowed deductions on Cost of Goods Sold, it paid taxes on $340,953 instead of on $776,772. Its effective tax rate was still 55% of its final earnings, but the business owner was able to invest the remaining cash back into the business.

Without these deductions, what does a final tax bill look like for a state-authorized cannabis business?

Figure 2 is a 1065 tax filing from 2014 from a medical cannabis dispensary in Seattle, Washington. The business followed the new, even stricter 280E rules in its filing. As the documents show, gross income from this business totaled $154,469 for 2014, and the business had $101,100 in expenses. If this business were a regular business, it would be taxed on its earnings, which were $53,369. In order to comply with 280E, however, the business was unable to take these deductions, and instead it paid taxes on $154,469. The business' tax payment totaled $46,340, which equates to 87% of its true earnings. The business owner had only $7,029 to either invest back into his business or keep as profit.

What's the worst-case scenario for a business under 280E?

Figure 3 is a 1065 and Statement of Activities and Changes In Net Assets from a medical marijuana dispensary in Arizona. The business produced $876,420 in gross receipts and was permitted to deduct $319,386 in Cost of Goods Sold, but could take no deductions for its other expenses. The business, thus, was taxed on its gross income, which was $557,034.

Like many startup businesses, however, the dispensary had significant first-year expenses, which totaled $867,863. These operating expenses were non-deductible under 280E. So while the business actually lost a total $310,829 for the year, its tax bill was still $189,781. Despite bringing in $876,420, the business ended up more than half a million dollars in the red.

Mitch Woolheiser, owner of Northern Lights Cannabis in Edgewater, Colorado, said he's "hoarding cash" in preparation for his tax payment. "I can't give my employees raises. I can't put money back into my business. Instead I've been hoarding cash in anticipation of what the IRS is going to take," Woolheiser says.

"I can't give my employees raises. I can't put money back into my business. Instead I've been hoarding cash in anticipation of what the IRS is going to take."

– Mitch Woolheiser, Northern Lights Cannabis

How many state economies are affected by 280E?

Section 280E affects all businesses that engage in the cultivation, sale, or processing of the cannabis plant. This includes cultivators, medical dispensaries, marijuana retail stores, and infused product manufacturers, as well as concentrates and cannabis oil manufacturers.

Cannabis is now legal in some form in 23 U.S. states as well as the District of Columbia, with Oregon and Alaska joining Colorado and Washington as states with laws regulating marijuana sales to adults over 21. Several other states are expected to enact similar laws regulating marijuana in 2016.

What impact does this have on the cannabis industry and states attempting to regulate marijuana?

"Section 280E de-incentivizes people from filing tax returns. It penalizes people who are trying to be transparent and operate within the law."

– Henry Wykowski, Henry G. Wykowski & Associates

Cannabis entrepreneurs *want* to pay federal and state taxes. Maintaining a strong working relationship with the IRS legitimizes these businesses and, in turn, the entire cannabis industry. But the current taxation climate has convinced some cannabis entrepreneurs to either ignore 280E on their tax filings, or forego paying taxes altogether. These businesses would rather gamble on the IRS overlooking their filing than see their revenues evaporate due to 280E.

As Henry Wykowski, a California attorney who works with marijuana clients on tax issues, states, "Section 280E de-incentivizes people from filing tax returns. It penalizes people who are trying to be transparent and operate within the law."

We believe the most recent IRS memo will force even more cannabis businesses to sidestep the IRS. This will undoubtedly lead to long and expensive audits, as well as lawsuits that will challenge the IRS memo and 280E as a whole.

How can this problem be resolved?

The National Cannabis Industry Association believes that the best fix to the situation is to remove marijuana from the Controlled Substances Act. However, The Small Business Tax Equity Act – companion Senate and House legislation introduced in the 114th Congress by Sen. Ron Wyden (D-OR) and Rep. Earl Blumenauer (D-OR) – would more narrowly address the unfair impact 280E has on states with regulated cannabis markets without necessitating a sweeping shift in U.S. marijuana policy.

"The intent of the law was to go after criminals, not law-abiding job creators. Congress needs to step up and clarify that this provision has become a case study in unintended consequences."

– Grover Norquist, Americans for Tax Reform

The legislation – S. 987 and H.R. 1855 – would exempt cannabis businesses acting in compliance with state law from the 280E provision, thereby allowing them to take the ordinary business deductions afforded to all other legal businesses.

In his endorsement of The Small Business Tax Equity Act, Americans for Tax Reform President Grover Norquist said, "The intent of the law was to go after criminals, not law abiding job creators. Congress needs to step up and clarify that this provision has become a case study in unintended consequences."

This sensible solution would bring this outdated provision of the tax code into the modern era and allow cannabis businesses to operate in accordance with the will of state voters and legislative bodies who have mandated that these businesses work within a legitimate, above-ground environment. Amending 280E will also allow businesses in the emerging cannabis industry to better invest in their local communities by hiring additional employees and offering more competitive salaries rather than sending inordinate amounts of revenue into the federal tax coffers.

National Cannabis Industry Association, April 2015

ACKNOWLEDGMENTS
Special thanks to the industry experts whose contributions of time, insight, and materials made this report possible:

Hilary Bricken, Harris Moure
Erik Briones, Minerva Canna Group
Jordan Cornelius, Cornelius CPAs
John B. Davis, Northwest Patient Resource Center
Darin Guthrie, Darin Guthrie CPA
James Hunt, James G. Hunt PLLC
Jim Marty, Bridge West CPAs
James Thorburn and Rich Walker, Thorburn-Walker
Matthew Walstatter, Pure Green Cannabis
Mitch and Eva Woolheiser, Northern Lights
Henry Wykowski, Henry G. Wykowski and Associates
Luigi Zamarra, Luigi CPA

Figure 1

Form 1065 — Department of the Treasury, Internal Revenue Service

U.S. Return of Partnership Income

For calendar year 2013, or tax year beginning ____________, 2013, ending ____________, 20____.

▸ Information about Form 1065 and its separate instructions is at *www.irs.gov/form1065.*

OMB No. 1545-0099 — **2013**

A Principal business activity: [redacted]

B Principal product or service: [redacted]

C Business code number: [redacted]

Type or Print

Name of partnership: [redacted]

Number, street, and room or suite number. If a P.O. box, see the instructions. [redacted]

City or town, state or province, country, and ZIP or foreign postal code: [redacted] [redacted] [redacted]

D Employer identification number: [redacted]

E Date business started: [redacted]

F Total assets (see instrs): $ 260,244.

G Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return (6) ☐ Technical termination — also check (1) or (2)

H Check accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ▸

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▸ 2

J Check if Schedules C and M-3 are attached ☐

Caution. *Include only trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.*

	Line	Description	Sub-line	Sub-amount	Line	Amount	
INCOME	1a	Gross receipts or sales	1a	776,772.			
	b	Returns and allowances	1b				
	c	Balance. Subtract line 1b from line 1a			1c	776,772.	Gross
	2	Cost of goods sold (attach Form 1125-A)			2	435,819.	COGS
	3	Gross profit. Subtract line 2 from line 1c			3	340,953.	Taxable Profit
	4	Ordinary income (loss) from other partnerships, estates, and trusts (attach statement)			4		
	5	Net farm profit (loss) (attach Schedule F (Form 1040))			5		
	6	Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)			6		
	7	Other income (loss) (attach statement)			7		
	8	**Total income (loss).** Combine lines 3 through 7			8	340,953.	
DEDUCTIONS (SEE INSTRS FOR LIMITATIONS)	9	Salaries and wages (other than to partners) (less employment credits)			9	85,004.	
	10	Guaranteed payments to partners			10		
	11	Repairs and maintenance			11	6,638.	
	12	Bad debts			12		
	13	Rent			13	8,325.	
	14	Taxes and licenses			14		
	15	Interest			15		
	16a	Depreciation (if required, attach Form 4562)	16a	8,287.			
	b	Less depreciation reported on Form 1125-A and elsewhere on return	16b	0.	16c	8,287.	
	17	Depletion (Do not deduct oil and gas depletion.)			17		
	18	Retirement plans, etc.			18		
	19	Employee benefit programs			19		
	20	Other deductions (attach statement) STMT			20	-108,254.	
	21	**Total deductions.** Add the amounts shown in the far right column for lines 9 through 20			21	0.	
	22	**Ordinary business income (loss).** Subtract line 21 from line 8			22	340,953.	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member manager) is based on all information of which preparer has any knowledge.

▸ ____________________ Signature of general partner or limited liability company member manager ▸ ________ Date

May the IRS discuss this return with the preparer shown below (see instrs)? ☒ Yes ☐ No

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☒ if self-employed	PTIN
Jordan Cornelius	Jordan Cornelius	12/31/14		[redacted]

Firm's name ▸ Cornelius CPAs — Firm's EIN ▸ [redacted]

Firm's address ▸ 10200 E Girard Ave, Ste A-105, Denver CO 80231 — Phone no. (303) 625-4077

BAA For Paperwork Reduction Act Notice, see separate instructions. PTPA0112 12/19/13 Form 1065 (2013)

Figure 1

Form 1065 Page 1, Line 20	Other Deductions Worksheet ▸ Keep for your records	2013

Name as Shown on Return	Employer Identification No.
[redacted]	[redacted]

1	Accounting	1	
2	Advertising	2	33,925.
3	Amortization	3	
4	Automobile and truck expense	4	285.
5	Bank charges	5	433.
6	Cleaning	6	
7	Commissions	7	
8	Computer services and supplies	8	1,814.
9	Credit and collection costs	9	
10	Delivery and freight	10	
11	Discounts	11	
12	Dues and subscriptions	12	
13	Equipment rent	13	3,763.
14	Gifts	14	
15	Insurance	15	1,933.
16	Janitorial	16	
17	Laundry and cleaning	17	
18	Legal and professional	18	
19 a	Meals and entertainment, subject to 50% limit — 19a		
b	Meals and entertainment, subject to 80% limit — b		
c	Meals and entertainment, allowed at 100% — c 447.		
d	Less disallowed — d		
e	Meals and entertainment, net	19 e	447.
20	Miscellaneous	20	
21	Office expense	21	
22	Outside services	22	3,833.
23	Parking fees and tolls	23	
24	Permits and fees	24	
25	Postage	25	98.
26	Printing	26	
27	Security	27	
28	Supplies	28	13,195.
29	Telephone	29	4,497.
30	Tools	30	
31	Training/continuing education	31	
32	Travel	32	
33	Uniforms	33	
34	Utilities	34	1,014.
35	Other (itemize):	35	
	PROFESSIONAL SERVICES		6,565.
	SOFTWARE		
	CASH SHORT/OVER		764.
	MERCHANT ACCOUNT FEES		12,181.
	263A ADJUSTMENT TO COGS		-39,185.
	280E NON-DEDUCTIBLE EXPENSES		-153,806. Non-Deductible
35	Total	35	-108,254.

ilpw6101.SCR 08/05/12

Figure 2

[redacted]
SEATTLE, WA 98126
206-588-2841

March 27, 2015

[redacted]

RE:
[redacted]
Schedule K-1 from Partnership's 2014 Return of Income

Dear [redacted]

Enclosed is your 2014 Schedule K-1 (Form 1065) Partner's Share of Income, Deductions, Credits, Etc. from [redacted]. This information reflects the amounts you need to complete your income tax return. The amounts shown are your distributive share of partnership tax items to be reported on your tax return, and may not correspond to actual distributions you have received during the year. This information is included in the Partnership's 2014 Federal Return of Partnership Income that was filed with the Internal Revenue Service.

This is the final year that [redacted] will file a Return of Partnership Income. As a result, this will be the last Schedule K-1 (Form 1065) you will receive from the partnership.

If you have any questions concerning this information, please contact us immediately.

Sincerely,

[redacted]

Enclosure(s)

Figure 2

651113

[X] Final K-1 [ ] Amended K-1

OMB No. 1545-0123

Schedule K-1 (Form 1065) **2014**

Department of the Treasury Internal Revenue Service

For calendar year 2014, or tax year beginning ______, 2014 ending ______, ______

Partner's Share of Income, Deductions, Credits, etc.

► See separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

[redacted]

B Partnership's name, address, city, state, and ZIP code

[redacted]
Seattle, WA 98126

C IRS Center where partnership filed return
e-file

D [ ] Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number

[redacted]

F Partner's name, address, city, state, and ZIP code

[redacted]
Bellevue, WA 98004

G [X] General partner or LLC member-manager [ ] Limited partner or other LLC member

H [X] Domestic partner [ ] Foreign partner

I1 What type of entity is this partner? Individual

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here [ ]

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	51 %	51 %
Loss	51 %	51 %
Capital	51 %	51 %

K Partner's share of liabilities at year end:

Nonrecourse	$
Qualified nonrecourse financing	$
Recourse	$ 11,988.

L Partner's capital account analysis:

Beginning capital account	$ 39,213.
Capital contributed during the year	$
Current year increase (decrease)	$ 73,273.
Withdrawals & distributions	$
Ending capital account	$ 112,486.

[X] Tax basis [ ] GAAP [ ] Section 704(b) book
[ ] Other (explain)

M Did the partner contribute property with a built-in gain or loss?
[ ] Yes [X] No
If 'Yes', attach statement (see instructions)

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	101,100.
2	Net rental real estate income (loss)	
3	Other net rental income (loss)	
4	Guaranteed payments	53,369.
5	Interest income	2.
6a	Ordinary dividends	
6b	Qualified dividends	
7	Royalties	
8	Net short-term capital gain (loss)	
9a	Net long-term capital gain (loss)	
9b	Collectibles (28%) gain (loss)	
9c	Unrecaptured section 1250 gain	
10	Net section 1231 gain (loss)	
11	Other income (loss)	
12	Section 179 deduction	5,434.
13	Other deductions	A 661.
14	Self-employment earnings (loss)	A 154,469.
15	Credits	
16	Foreign transactions	
17	Alternative minimum tax (AMT) items	A -283.
18	Tax-exempt income and nondeductible expenses	C 21,734.
19	Distributions	
20	Other information	A 2.

What was earned

Amount taxed on... 30% is $46,340.07 Amount to live on would be $7,029.00

*See attached statement for a

FOR IRS USE ONLY

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1065. Schedule K-1 (Form 1065) 2014

Partner 1 PTPA0312L 11/28/14

Figure 3

Form **1120** Department of the Treasury Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2013 or tax year beginning _______________, ending _______________

▶ Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

OMB No. 1545-0123

2013

A Check if:
1a Consolidated return (attach Form 851) . . ☐
b Life/nonlife consolidated return . . . . . ☐
2 Personal holding co. (attach Sch. PH) . . . ☐
3 Personal service corp. (see instructions) . . . ☐
4 Schedule M-3 attached ☐

TYPE OR PRINT

Name

Foreign country name | Foreign province/state/county | Foreign postal code

B Employer identification number

C Date incorporated

D Total assets (see instructions)
$ 1,406,508

E Check if: (1) ☒ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change

	Line	Description			Line	Amount
Income	1a	Gross receipts or sales	1a	876,420		
	b	Returns and allowance	1b			
	c	Balance. Subtract line 1b from line 1a			1c	876,420
	2	Cost of goods sold (attach Form 1125-A)			2	319,386
	3	Gross profit. Subtract line 2 from line 1c			3	557,034
	4	Dividends (Schedule C, line 19)			4	
	5	Interest			5	
	6	Gross rents			6	
	7	Gross royalties			7	
	8	Capital gain net income (attach Schedule D (Form 1120))			8	
	9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)			9	
	10	Other income (see instructions—attach statement)			10	
	11	**Total income.** Add lines 3 through 10 ▶			11	557,034
Deductions (See instructions for limitations on deductions.)	12	Compensation of officers (see instructions—attach Form 1125-E) ▶			12	
	13	Salaries and wages (less employment credits)			13	
	14	Repairs and maintenance			14	
	15	Bad debts			15	
	16	Rents			16	
	17	Taxes and licenses			17	
	18	Interest			18	
	19	Charitable contributions			19	
	20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)			20	
	21	Depletion			21	
	22	Advertising			22	
	23	Pension, profit-sharing, etc., plans			23	
	24	Employee benefit programs			24	
	25	Domestic production activities deduction (attach Form 8903)			25	
	26	Other deductions (attach statement)			26	
	27	**Total deductions.** Add lines 12 through 26 ▶			27	0
	28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11			28	557,034
	29a	Net operating loss deduction (see instructions)	29a			
	b	Special deductions (Schedule C, line 20)	29b			
	c	Add lines 29a and 29b			29c	0
Tax, Refundable Credits, and Payments	30	**Taxable income.** Subtract line 29c from line 28 (see instructions)			30	557,034
	31	Total tax (Schedule J, Part I, line 11)			31	189,392
	32	Total payments and refundable credits (Schedule J, Part II, line 21)			32	0
	33	Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ ☐			33	
	34	**Amount owed.** If line 32 is smaller than the total of lines 31 and 33, enter amount owed			34	189,392
	35	**Overpayment.** If line 32 is larger than the total of lines 31 and 33, enter amount overpaid			35	0
	36	Enter amount from line 35 you want: **Credited to 2014 estimated tax** ▶		Refunded ▶	36	0

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer | Date | ▶ Title

May the IRS discuss this return with the preparer shown below (see instructions)? ☐ Yes ☒ No

Paid Preparer Use Only

Print/Type preparer's name | Preparer's signature | Date | Check ☐ if self-employed | PTIN

Firm's EIN ▶

Phone no.

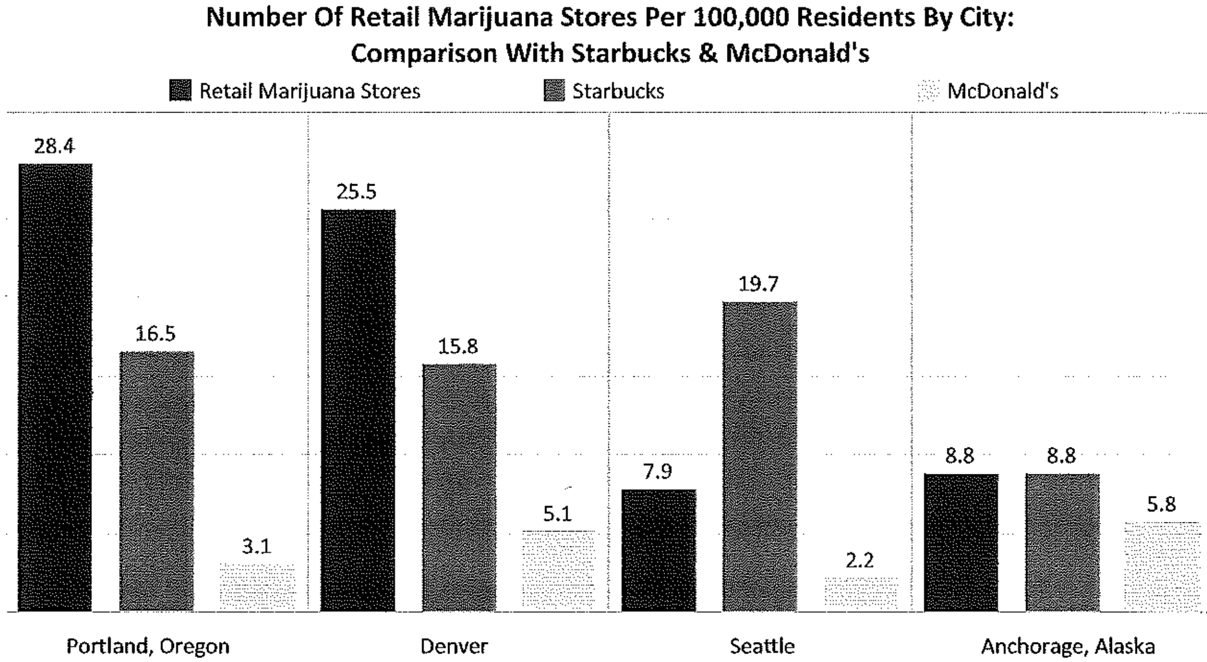
State AZ | ZIP code

For Paperwork Reduction Act Notice, see separate instructions.

HTA

Form 1120 (2013)

CHART 5.10: Number Of Retail Marijuana Stores Per 100,000 Residents By City: Comparison With Starbucks & McDonald's



Source: Oregon Liquor Control Commission, Colorado Department of Revenue, Washington Liquor and Cannabis Board, Alaska Alcohol and Marijuana Control Office, Google Maps

The level of competition with which retailers must contend can be put into perspective by comparing the number of marijuana retail stores per 100,000 residents in several major cities to Starbucks and McDonald's—stores that are considered ubiquitous in the U.S.

In Portland, Oregon, and Denver, marijuana retailers outnumber Starbucks by a wide margin. In Seattle—ground zero for the coffee movement of the late 1990s—Starbucks outnumber retail marijuana stores, while in Anchorage, Alaska, marijuana retailers and Starbucks are equally represented. The relative proportion in each of these cities can be partly explained by state regulations: Washington has a statewide cap on the number of allowed retailers, limiting the number of marijuana retail. Alaska, Colorado and Oregon have no such statewide caps (although municipalities can institute caps).

In all cases, the density of marijuana retailers is greater than that of McDonald's, with the largest difference in Portland and the smallest difference in Anchorage.

This level of competition places additional pressure on retailers to provide customers with a consistently positive experience. If a customer has a less-than-positive experience at any given recreational store, they likely have dozens of other stores in the same vicinity they can visit instead. Retailers need to provide a compelling reason for a customer to visit, such as low prices, exceptional service, broad product selection or convenience.

CHART 5.09: The Impact Of 280E On A Retailer's Bottom Line

Form 1125-A
(Rev. December 2012)
Department of Revenue

INCOME STATEMENT

OMB No. 1545-2225

	MARIJUANA RETAILER	TRADITIONAL RETAILER
1. Revenue	$1,000,000	$1,000,000
2. Cost of Goods Sold	$500,000	$500,000
a. Wholesale Cost	$400,000	$400,000
b. Delivery	$75,000	$75,000
c. Storage	$25,000	$25,000
3. Rent	$100,000	$100,000
4. Utilities	$100,000	$100,000
5. Insurance	$50,000	$50,000
6. Maintenance	$50,000	$50,000
Taxable Income	$500,000	$200,000
Tax Burden at 25% Rate	$125,000	$50,000
Income After Taxes & Expenses	$75,000	$150,000

Marijuana retailers cannot deduct these business expenses, while traditional retailers can. So in this example, taxable income for cannabis dispensaries/rec stores is $500,000 – reflecting only cost of goods sold adjustments – while traditional retailers have taxable income of $200,000. As a result, cannabis retailers pay more in taxes.

A cannabis dispensary or rec shop ends up with about half the income of a traditional retailer despite having the same expenses and revenue.

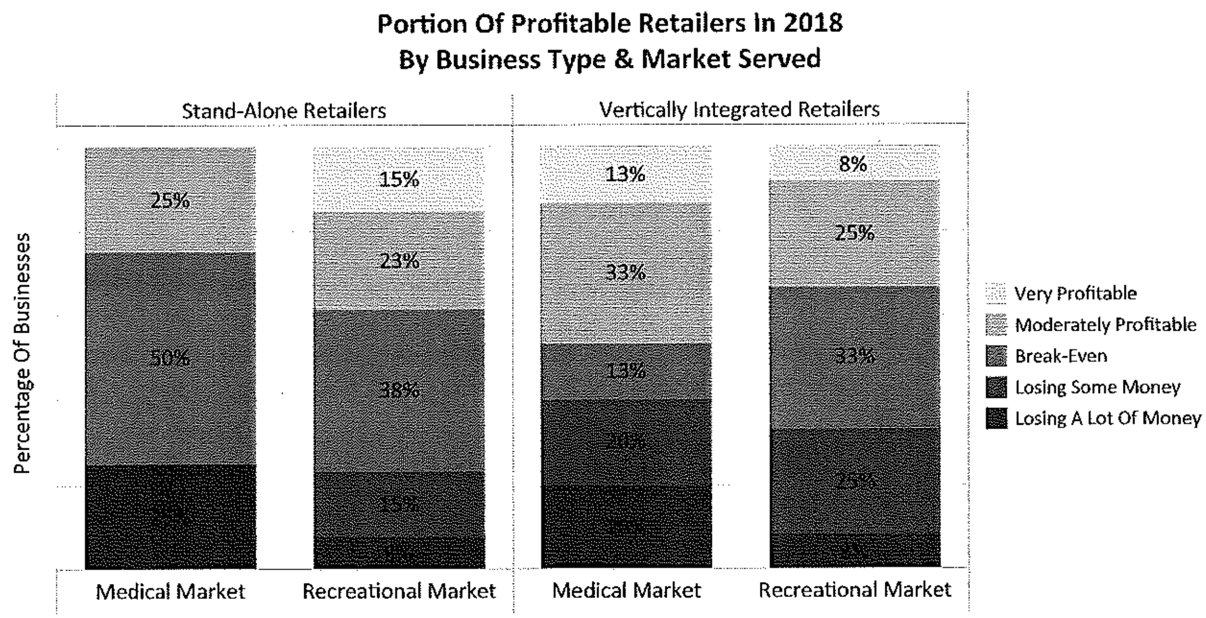
A marijuana retailer and a traditional retailer are allowed to adjust their taxable income based on the cost of goods sold (essentially a tax deduction), but this is the only adjustment a marijuana retailer can make.

Source: 2019 Marijuana Business Daily

While much has been made of the rapid growth of the marijuana industry throughout the United States, cannabis business owners still face significant obstacles turning sales into profits. The most notable hurdle is IRS tax requirement 280E, which creates a high tax burden on marijuana companies, particularly retailers. Under Section 280E of the federal tax code, the only tax deduction marijuana retailers may claim pertains to the cost of goods sold—or the direct expenses attributable to the production of products sold by a company. As a result, vertically integrated retailers can take higher deductions, as these businesses are directly involved in the production of marijuana and infused products, whereas stand-alone retailers are not. To illustrate how these tax considerations affect a business' bottom line, the chart above shows a hypothetical income statement from a stand-alone marijuana retailer compared with a traditional retailer.

Although there has been no movement on changing 280E to date, lawmakers are working to push through other changes, such as the Secure and Fair Enforcement (SAFE) Banking Act. In addition to loosening federal restrictions that prevent banks from working with marijuana companies, the SAFE Banking Act would address the limitations of 280E.

CHART 5.06: Portion Of Profitable Retailers In 2018 By Business Type & Market Served



Note: "Losing A Lot Of Money" (expenses and taxes exceed revenue by more than 25%); "Losing Some Money" (expenses and taxes exceed revenue by up to 25%); "Moderately Profitable" (up to 25% of revenue left after expenses and taxes are paid); "Very Profitable" (more than 25% of all revenue left after expenses and taxes are paid).
Source: 2019 Marijuana Business Factbook

Across all markets and business types, most retailers reported making a profit or breaking even in 2018. Overall, retailers in recreational markets fare better than those in medical markets, with a greater proportion of retailers in MMJ markets reporting losses than those in adult-use markets.

The same holds true for vertically integrated retailers: A higher proportion in medical markets reported losing at least some money than vertically integrated retailers in recreational markets. Several medical marijuana states—including Iowa, Minnesota and New York—require vertical integration and have high barriers to entry, including significant licensing fees, but sales have not yet met expectations. In the case of Iowa, regulators recognize this disconnect and have made plans to revisit their fee structure during the 2019 legislative session.

Michele Perejda
141 Washington Avenue
January 7, 2020

My name is Michele Perejda. I own a residence at 141 Washington Avenue. My son Matthew owns 143 Washington Avenue. Both properties are in the R-6 residential zone, and have been since the inception of zoning in Portland (1958).

The property immediately adjacent to 143 Washington Avenue was, until recently zoned residential and is now (as of 2015) in the B-1 zone.* The owner of 143 rear (Akasha LLC) purports to be building a bathhouse as a use in the zone and the building has been permitted as a Bathhouse with limited hours.

Like others who may be located near potential licensees I have a concern about change of use, hours of operation, and other factors that will affect the use and enjoyment of my property, and the value of my property if a retail marijuana operation is opened immediately next door with extended hours and with transient access -all within blinking distance of my front door.

The exterior of my son's home is inches from the property line of the purported Bathhouse.
He has actually lost access to the entire back line of his property and home exterior.
He cannot even open his car door without encroaching on the neighboring property at 143 Rear Washington Avenue.

I believe that my concerns are not unique. It is common sense that City zoning and regulation should indeed and must take into account the potential for nuisance and the permanent diminution of value that such a potential use in close proximity to to an R6 zone represents

I support the city's efforts to develop policies and ordinances that will govern the lawful retail sale of marijuana, as allowed by Maine Law.

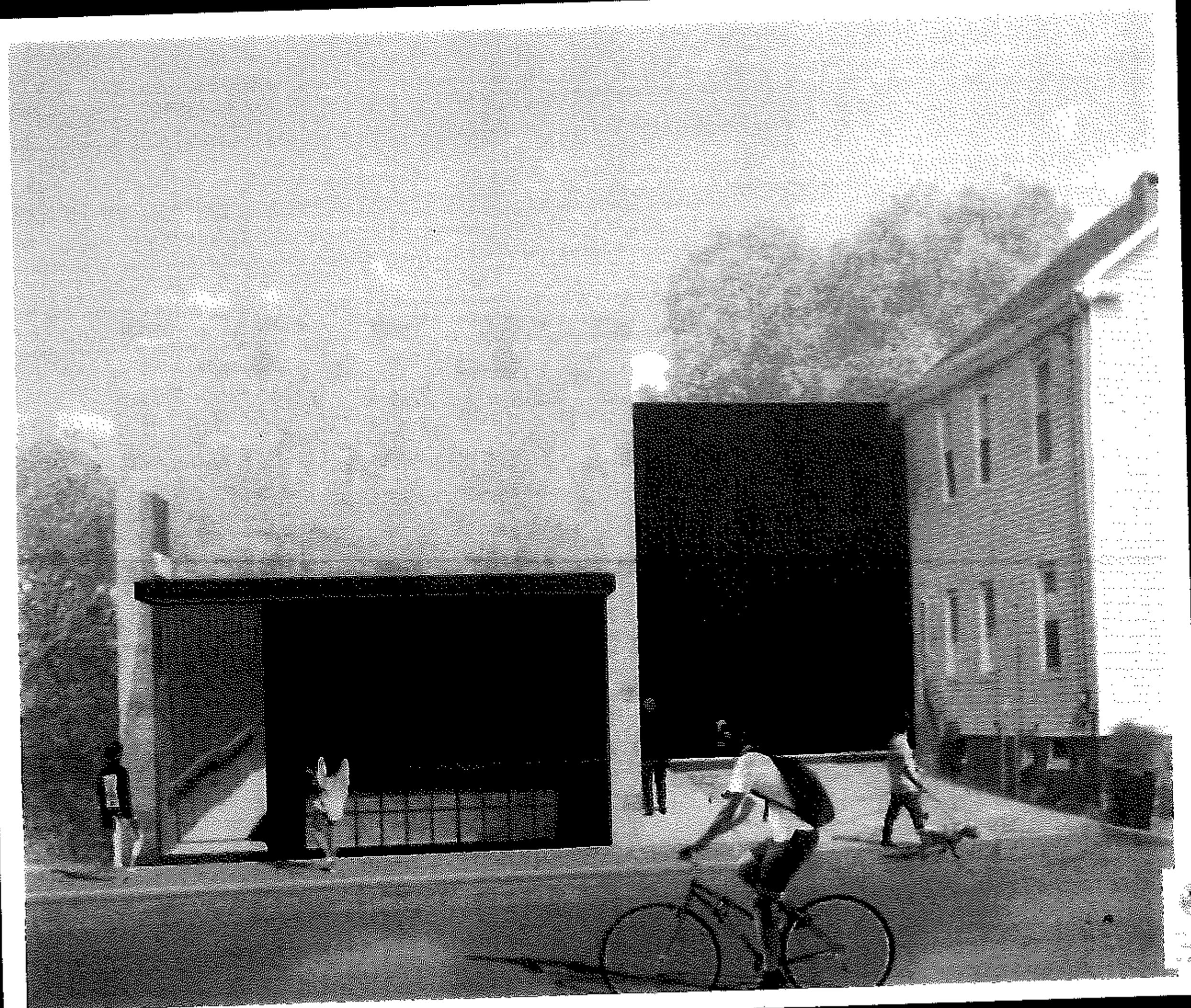
In that connection, however, I propose that the Council carefully consider restrictions on the licensing of retail marijuana businesses within 250 feet of a residential zone, just as it has included restrictions on sales proximate to schools and churches.

If such a use is allowed, I propose that hours of operation be considered and limited to 9 a.m. and 6 p.m.
I am interested in the individual comments of each member of the City Council and from the citizens of the City of Portland on this proposal.

Most of the negative impacts of any new type of regulated business can be mitigated through thoughtful regulation.

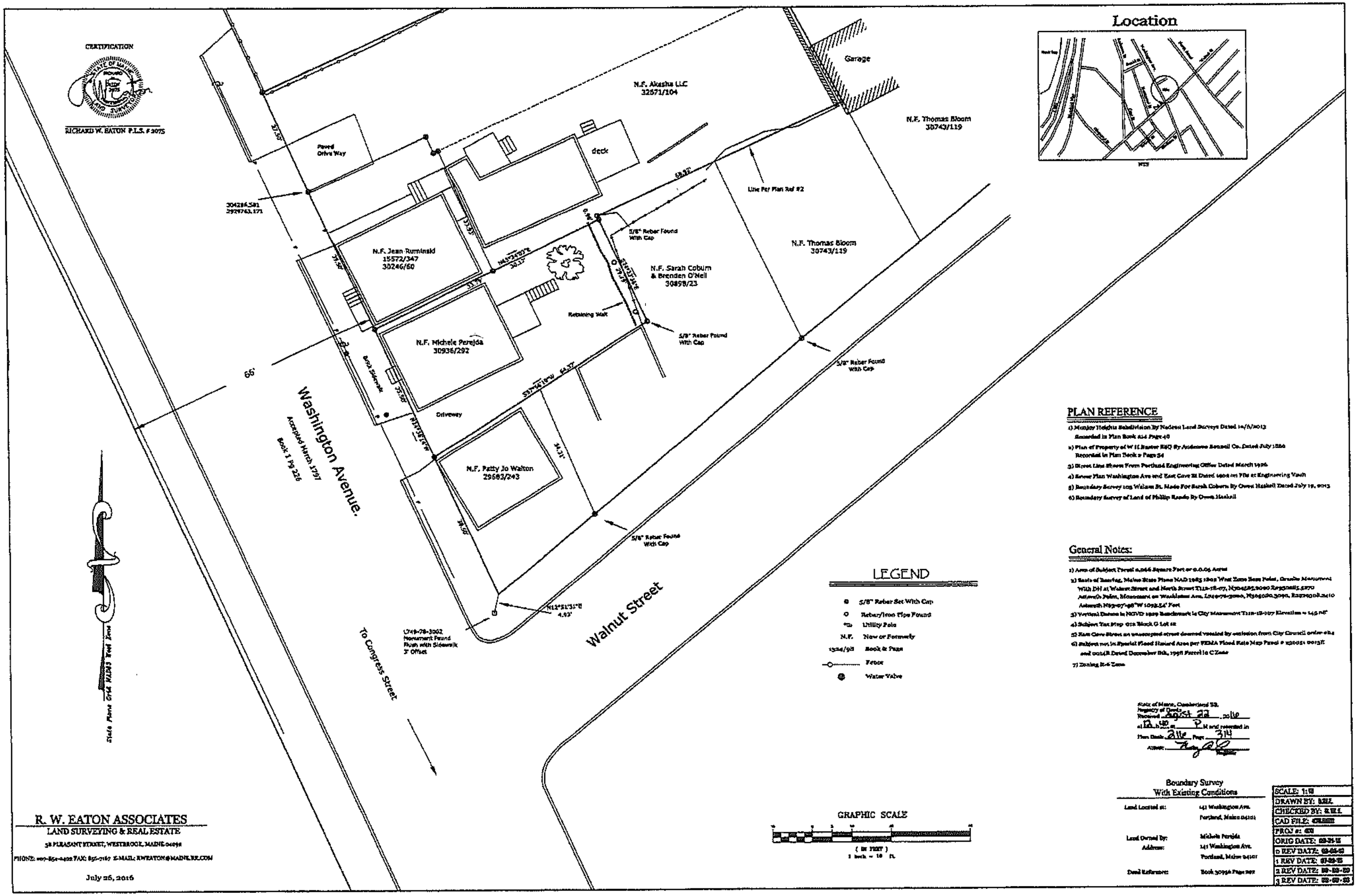
It is not uncommon for restrictions to be placed on the location of particular uses within a zone. For example, gun sales and retail vaping are not allowed within a short distance to schools and school property.

"Formula" retail stores and restaurants have been restricted or prohibited in the Old Port and the Arts District.



Artist's rendering shows the facade of Washington Baths. a public bath house and sauna under construction on Washington Avenue. Courtesy of Washington Baths. Courtesy of Washington Baths

143-washington-ave-taxmap.pdf



CERTIFICATION
RICHARD W. EATON P.L.S. # 2075
Location
N.F. Akasha LLC
32571/104
Garage
N.F. Thomas Bloom
30743/119
Paved Drive Way
deck
304286.581
2929763.171
Line Per Plan Ref #2
N.F. Jean Ruminski
15572/347
30246/60
N.F. Sarah Coburn
& Brenden O'Neil
30858/23
N.F. Thomas Bloom
30743/119
5/8" Rebar Found With Cap
Retaining Wall
N.F. Michele Perejda
30936/292
Brick Sidewalk
66'
Washington Avenue.
Accepted March 1797
Book 1 Pg 226
Driveway
N.F. Patty Jo Walton
29683/243
5/8" Rebar Found With Cap
N12°51'31"E
4.93'
L749-78-3002
Monument Found
Flush with Sidewalk
3' Offset
To Congress Street
Walnut Street
State Plane Grid NAD83 West Zone
LEGEND
5/8" Rebar Set With Cap
Rebar/Iron Pipe Found
Utility Pole
N.F. New or Formerly
1524/98 Book & Page
Fence
Water Valve
PLAN REFERENCE
1) Munjoy Heights Subdivision By Nadeau Land Surveys Dated 10/6/2013
Recorded in Plan Book 214 Page 40
2) Plan of Property of W H Baxter ESQ By Anderson Bonnell Co. Dated July 1886
Recorded in Plan Book 2 Page 54
3) Street Line Sheets From Portland Engineering Office Dated March 1926
4) Sewer Plan Washington Ave and East Cove St Dated 1904 on File at Engineering Vault
5) Boundary Survey 105 Walnut St. Made For Sarah Coburn By Owen Haskell Dated July 19, 2013
6) Boundary Survey of Land of Phillip Rando By Owen Haskell
General Notes:
1) Area of Subject Parcel [illegible] Square Feet or [illegible] Acres
2) Basis of Bearing, Maine State Plane NAD 1983 1802 West Zone Base Point, Granite Monument With DH at Walnut Street and North Street [illegible]
Azimuth Point, Monument on Washington Ave, [illegible]
Azimuth [illegible] Feet
3) Vertical Datum is NGVD 1929 Benchmark is City Monument [illegible] Elevation = [illegible]
4) Subject Tax Map 012 Block G Lot [illegible]
5) East Cove Street an unaccepted street deemed vacated by omission from City Council order [illegible]
6) Subject not in Special Flood Hazard Area per FEMA Flood Rate Map Panel # [illegible]
and [illegible] Dated December 8th, 1998 Parcel is C Zone
7) Zoning R-6 Zone
State of Maine, Cumberland SS.
Registry of Deeds
Received August 22 2016
at 12 h 40 m P M and recorded in
Plan Book 216 Page 314
Attest: Register
Boundary Survey
With Existing Conditions
Land Located at: 141 Washington Ave. Portland, Maine 04101
Land Owned By: Michele Perejda
Address: 141 Washington Ave. Portland, Maine 04101
Deed Reference: Book 30936 Page 292
SCALE: 1:10
DRAWN BY:
CHECKED BY: R.W.E.
CAD FILE:
PROJ #:
ORIG DATE:
0 REV DATE:
1 REV DATE:
2 REV DATE:
3 REV DATE:
GRAPHIC SCALE
(IN FEET)
1 inch = 10 ft.
R. W. EATON ASSOCIATES
LAND SURVEYING & REAL ESTATE
38 PLEASANT STREET, WESTBROOK, MAINE 04092
PHONE: 207-854-0402 FAX: 854-7167 E-MAIL: RWEATON@MAINE.RR.COM
July 26, 2016

INTERNAL REVENUE CODE SECTION 280E: CREATING AN IMPOSSIBLE SITUATION FOR LEGITIMATE BUSINESSES

What is Section 280E?

Section 280E of the Internal Revenue Code forbids businesses from deducting otherwise ordinary business expenses from gross income associated with the "trafficking" of Schedule I or II substances, as defined by the Controlled Substances Act. The IRS has subsequently applied Section 280E to state-legal cannabis businesses, since cannabis is still a Schedule I substance.

A throwback from the Reagan Administration, Section 280E originated from a 1981 court case in which a convicted cocaine trafficker asserted his right under federal tax law to deduct ordinary business expenses. In 1982, Congress created 280E to prevent other drug dealers from following suit. It states that no deductions should be allowed on any amount "in carrying on any trade or business if such trade or business consists of trafficking in controlled substances."

With 23 states and the District of Columbia now allowing some form of legal marijuana, 280E is applied to state-regulated cannabis businesses more often than it is to the types of illegal drug dealers that the provision was intended to penalize.

How does Section 280E hurt state-legal cannabis businesses?

Federal income taxes are based on a fairly simple formula: start with gross income, subtract business expenses to calculate taxable income, and then pay taxes on this amount. Owners of regular businesses often derive profits from these business deductions.

Cannabis businesses, however, pay taxes on gross income. These businesses often pay tax rates that are 70% or higher. As John Davis, owner of the Northwest Patient Resource Center in Seattle, WA states, "I'm taxed on nearly double the amount that my business actually makes."

"I'm taxed on nearly double the amount that my business actually makes."

– John Davis, Northwest Patient Resource Center

Below is a simplified model that illustrates the tax structure for cannabis businesses compared to a normal businesses. In this scenario, the normal business's taxable income is $150,000, while the cannabis business is taxed on $350,000, despite having the same costs and expenses.

	Non-Cannabis Business	Cannabis Business
Gross Revenue	$1,000,000	$1,000,000
Cost of Goods Sold	$650,000	$650,000
Gross Income	$350,000	$350,000
Deductible Business Expenses	$200,000	$0
Taxable Income	$150,000	$350,000
Tax (30%)	$45,000	$105,000
Effective Tax Rate	30%	70%

The taxation problem facing cannabis businesses just got worse.

"There are a lot of businesses that are going to get absolutely creamed."

– Jim Marty, Bridge West CPAs

In January 2015, the Internal Revenue Service issued an internal memorandum that opined on how state-legal cannabis businesses should compute federal income taxes. Drafted by the IRS Chief Counsel, the memo rejects many of the tax deductions that these businesses have traditionally made. The memo challenges tax strategies that allow these businesses to stay afloat, and imposes a strict interpretation of Section 280E of the Internal Revenue Code. Without even the meager deductions state-legal cannabis businesses were previously allowed to take, these businesses face a bleak financial future. This deeply affects their ability to reinvest profits back into their local communities and fulfill the will of state voters, legislatures, and regulatory bodies that have mandated that cannabis be dispensed through legal storefronts.

Jim Marty, a CPA with Colorado's Bridge West CPAs, says that many marijuana businesses are going to struggle under the new rules. "There are a lot of businesses that are going to get absolutely creamed," he says.

What types of business expenses are scrutinized under 280E?

- Employee salaries
- Utility costs such as electricity, internet and telephone service
- Health insurance premiums
- Marketing and advertising costs
- Repairs and maintenance
- Rental fees for facilities
- Routine repair and maintenance
- Payments to contractors

State-legal cannabis businesses are allowed to deduct the Cost of Goods Sold (COGS) on their taxes. Also, since 2007, cannabis businesses have made deductions on their non-cannabis business activities. Most importantly, however, cannabis businesses have also followed guidance from section 263A of the IRC, which allows businesses to capitalize on indirect costs — such as administrative and inventory costs, as well as the amount paid in state excise taxes — and deduct them under COGS.

Depending on the business, these indirect costs can be sizable. The strategy of including these costs in COGS is oftentimes what allows cannabis businesses to collect meager profits.

What deductions are now likely to be challenged?

- General and administrative costs (bookkeeping, legal expenses, technology costs)
- State excise taxes
- Storage of cannabis
- Purchasing cannabis
- Depreciation of cannabis

What impact does this have on the cannabis industry and states attempting to regulate marijuana?

"Section 280E de-incentivizes people from filing tax returns. It penalizes people who are trying to be transparent and operate within the law."

– Henry Wykowski, Henry G. Wykowski & Associates

Cannabis entrepreneurs *want* to pay federal and state taxes. Maintaining a strong working relationship with the IRS legitimizes these businesses and, in turn, the entire cannabis industry. But the current taxation climate has convinced some cannabis entrepreneurs to either ignore 280E on their tax filings, or forego paying taxes altogether. These businesses would rather gamble on the IRS overlooking their filing than see their revenues evaporate due to 280E.

As Henry Wykowski, a California attorney who works with marijuana clients on tax issues, states, "Section 280E de-incentivizes people from filing tax returns. It penalizes people who are trying to be transparent and operate within the law."

We believe the most recent IRS memo will force even more cannabis businesses to sidestep the IRS. This will undoubtedly lead to long and expensive audits, as well as lawsuits that will challenge the IRS memo and 280E as a whole.

How can this problem be resolved?

The National Cannabis Industry Association believes that the best fix to the situation is to remove marijuana from the Controlled Substances Act. However, The Small Business Tax Equity Act – companion Senate and House legislation introduced in the 114th Congress by Sen. Ron Wyden (D-OR) and Rep. Earl Blumenauer (D-OR) – would more narrowly address the unfair impact 280E has on states with regulated cannabis markets without necessitating a sweeping shift in U.S. marijuana policy.

"The intent of the law was to go after criminals, not law-abiding job creators. Congress needs to step up and clarify that this provision has become a case study in unintended consequences."

– Grover Norquist, Americans for Tax Reform

The legislation – S. 987 and H.R. 1855 – would exempt cannabis businesses acting in compliance with state law from the 280E provision, thereby allowing them to take the ordinary business deductions afforded to all other legal businesses.

In his endorsement of The Small Business Tax Equity Act, Americans for Tax Reform President Grover Norquist said, "The intent of the law was to go after criminals, not law abiding job creators. Congress needs to step up and clarify that this provision has become a case study in unintended consequences."

This sensible solution would bring this outdated provision of the tax code into the modern era and allow cannabis businesses to operate in accordance with the will of state voters and legislative bodies who have mandated that these businesses work within a legitimate, above-ground environment. Amending 280E will also allow businesses in the emerging cannabis industry to better invest in their local communities by hiring additional employees and offering more competitive salaries rather than sending inordinate amounts of revenue into the federal tax coffers.

National Cannabis Industry Association, April 2015

How did these deductions benefit cannabis businesses?

Attached below are three documents that illustrate how 280E has applied to typical cannabis businesses both before and after the tightening of IRS rules.

Figure 1 is a 1065 tax filing from 2013 from a medical cannabis business in Denver, Colorado. Gross receipts totaled $776,772, and thanks to some strong work by a CPA, the business was able to deduct $435,819 in Cost of Goods Sold, leaving a gross income of $340,953. The business had an additional $153,806 in deductions that any other business would be able to take, but were disallowed under 280E. Since the business was allowed deductions on Cost of Goods Sold, it paid taxes on $340,953 instead of on $776,772. Its effective tax rate was still 55% of its final earnings, but the business owner was able to invest the remaining cash back into the business.

Without these deductions, what does a final tax bill look like for a state-authorized cannabis business?

Figure 2 is a 1065 tax filing from 2014 from a medical cannabis dispensary in Seattle, Washington. The business followed the new, even stricter 280E rules in its filing. As the documents show, gross income from this business totaled $154,469 for 2014, and the business had $101,100 in expenses. If this business were a regular business, it would be taxed on its earnings, which were $53,369. In order to comply with 280E, however, the business was unable to take these deductions, and instead it paid taxes on $154,469. The business' tax payment totaled $46,340, which equates to 87% of its true earnings. The business owner had only $7,029 to either invest back into his business or keep as profit.

What's the worst-case scenario for a business under 280E?

Figure 3 is a 1065 and Statement of Activities and Changes In Net Assets from a medical marijuana dispensary in Arizona. The business produced $876,420 in gross receipts and was permitted to deduct $319,386 in Cost of Goods Sold, but could take no deductions for its other expenses. The business, thus, was taxed on its gross income, which was $557,034.

Like many startup businesses, however, the dispensary had significant first-year expenses, which totaled $867,863. These operating expenses were non-deductible under 280E. So while the business actually lost a total $310,829 for the year, its tax bill was still $189,781. Despite bringing in $876,420, the business ended up more than half a million dollars in the red.

Mitch Woolheiser, owner of Northern Lights Cannabis in Edgewater, Colorado, said he's "hoarding cash" in preparation for his tax payment. "I can't give my employees raises. I can't put money back into my business. Instead I've been hoarding cash in anticipation of what the IRS is going to take," Woolheiser says.

"I can't give my employees raises. I can't put money back into my business. Instead I've been hoarding cash in anticipation of what the IRS is going to take."

– Mitch Woolheiser, Northern Lights Cannabis

How many state economies are affected by 280E?

Section 280E affects all businesses that engage in the cultivation, sale, or processing of the cannabis plant. This includes cultivators, medical dispensaries, marijuana retail stores, and infused product manufacturers, as well as concentrates and cannabis oil manufacturers.

Cannabis is now legal in some form in 23 U.S. states as well as the District of Columbia, with Oregon and Alaska joining Colorado and Washington as states with laws regulating marijuana sales to adults over 21. Several other states are expected to enact similar laws regulating marijuana in 2016.

ACKNOWLEDGMENTS
Special thanks to the industry experts whose contributions of time, insight, and materials made this report possible:

Hilary Bricken, Harris Moure
Erik Briones, Minerva Canna Group
Jordan Cornelius, Cornelius CPAs
John B. Davis, Northwest Patient Resource Center
Darin Guthrie, Darin Guthrie CPA
James Hunt, James G. Hunt PLLC
Jim Marty, Bridge West CPAs
James Thorburn and Rich Walker, Thorburn-Walker
Matthew Walstatter, Pure Green Cannabis
Mitch and Eva Woolheiser, Northern Lights
Henry Wykowski, Henry G. Wykowski and Associates
Luigi Zamarra, Luigi CPA

Figure 1

Form **1065** | Department of the Treasury Internal Revenue Service

U.S. Return of Partnership Income

For calendar year 2013, or tax year beginning ____________, 2013, ending ____________, 20____.

▸ Information about Form 1065 and its separate instructions is at www.irs.gov/form1065.

OMB No. 1545-0099

2013

A Principal business activity [redacted]	Type or Print — Name of partnership [redacted]	D Employer identification number [redacted]
B Principal product or service [redacted]	Number, street, and room or suite number. If a P.O. box, see the instructions. [redacted]	E Date business started [redacted]
C Business code number [redacted]	City or town, state or province, country, and ZIP or foreign postal code [redacted]	F Total assets (see instrs) $ 260,244.

G Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return (6) ☐ Technical termination – also check (1) or (2)

H Check accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ▸

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▸ 2

J Check if Schedules C and M-3 are attached ☐

Caution. *Include only trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.*

	Line	Description				Amount	
INCOME	1 a	Gross receipts or sales	1a	776,772.			
	b	Returns and allowances	1b				
	c	Balance. Subtract line 1b from line 1a			1c	776,772.	Gross
	2	Cost of goods sold (attach Form 1125-A)			2	435,819.	COGS
	3	Gross profit. Subtract line 2 from line 1c			3	340,953.	Taxable Profit
	4	Ordinary income (loss) from other partnerships, estates, and trusts (attach statement)			4		
	5	Net farm profit (loss) (attach Schedule F (Form 1040))			5		
	6	Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)			6		
	7	Other income (loss) (attach statement)			7		
	8	**Total income (loss).** Combine lines 3 through 7			8	340,953.	
DEDUCTIONS (SEE INSTRS FOR LIMITATIONS)	9	Salaries and wages (other than to partners) (less employment credits)			9	85,004.	
	10	Guaranteed payments to partners			10		
	11	Repairs and maintenance			11	6,638.	
	12	Bad debts			12		
	13	Rent			13	8,325.	
	14	Taxes and licenses			14		
	15	Interest			15		
	16a	Depreciation (if required, attach Form 4562)	16a	8,287.			
	b	Less depreciation reported on Form 1125-A and elsewhere on return	16b	0.	16c	8,287.	
	17	Depletion (**Do not deduct oil and gas depletion.**)			17		
	18	Retirement plans, etc.			18		
	19	Employee benefit programs			19		
	20	Other deductions (attach statement) STMT			20	-108,254.	
	21	**Total deductions.** Add the amounts shown in the far right column for lines 9 through 20			21	0.	
	22	**Ordinary business income (loss).** Subtract line 21 from line 8			22	340,953.	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member manager) is based on all information of which preparer has any knowledge.

▸ Signature of general partner or limited liability company member manager ▸ Date

May the IRS discuss this return with the preparer shown below (see instrs)? ☒ Yes ☐ No

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☒ if self-employed	PTIN
Jordan Cornelius	Jordan Cornelius	12/31/14		[redacted]

Firm's name ▸ Cornelius CPAs — Firm's EIN ▸ [redacted]

Firm's address ▸ 10200 E Girard Ave, Ste A-105, Denver CO 80231 — Phone no. (303) 625-4077

Figure 1

Form 1065
Page 1, Line 20

Other Deductions Worksheet

▶ Keep for your records

2013

Name as Shown on Return	Employer Identification No.
[redacted]	[redacted]

1	Accounting			1	
2	Advertising			2	33,915.
3	Amortization			3	
4	Automobile and truck expense			4	285.
5	Bank charges			5	433.
6	Cleaning			6	
7	Commissions			7	
8	Computer services and supplies			8	1,814.
9	Credit and collection costs			9	
10	Delivery and freight			10	
11	Discounts			11	
12	Dues and subscriptions			12	
13	Equipment rent			13	3,763.
14	Gifts			14	
15	Insurance			15	1,933.
16	Janitorial			16	
17	Laundry and cleaning			17	
18	Legal and professional			18	
19 a	Meals and entertainment, subject to 50% limit	19 a			
b	Meals and entertainment, subject to 80% limit	b			
c	Meals and entertainment, allowed at 100%	c	447.		
d	Less disallowed	d			
e	Meals and entertainment, net			19 e	447.
20	Miscellaneous			20	
21	Office expense			21	
22	Outside services			22	3,833.
23	Parking fees and tolls			23	
24	Permits and fees			24	
25	Postage			25	98.
26	Printing			26	
27	Security			27	
28	Supplies			28	13,195.
29	Telephone			29	4,497.
30	Tools			30	
31	Training/continuing education			31	
32	Travel			32	
33	Uniforms			33	
34	Utilities			34	1,014.
35	Other (itemize):			35	
	PROFESSIONAL SERVICES				6,565.
	SOFTWARE				
	CASH SHORT/OVER				764.
	MERCHANT ACCOUNT FEES				12,181.
	263A ADJUSTMENT TO COGS				-39,185.
	280E NON-DEDUCTIBLE EXPENSES				-153,806. Non-Deductible
35	Total			35	-108,254.

mpw6101.SCR 06/05/12

Figure 2

[redacted]
SEATTLE, WA 98126
206-588-2841

March 27, 2015

[redacted]

RE:
[redacted]
Schedule K-1 from Partnership's 2014 Return of Income

Dear [redacted]

Enclosed is your 2014 Schedule K-1 (Form 1065) Partner's Share of Income, Deductions, Credits, Etc. from [redacted] This information reflects the amounts you need to complete your income tax return. The amounts shown are your distributive share of partnership tax items to be reported on your tax return, and may not correspond to actual distributions you have received during the year. This information is included in the Partnership's 2014 Federal Return of Partnership Income that was filed with the Internal Revenue Service.

This is the final year that [redacted] will file a Return of Partnership Income. As a result, this will be the last Schedule K-1 (Form 1065) you will receive from the partnership.

If you have any questions concerning this information, please contact us immediately.

Sincerely,

[redacted]

Enclosure(s)

Figure 2

651113

[X] Final K-1 [ ] Amended K-1

OMB No. 1545-0123

Schedule K-1 (Form 1065) **2014**

Department of the Treasury Internal Revenue Service

For calendar year 2014, or tax year beginning ________, 2014 ending ________, ____

Partner's Share of Income, Deductions, Credits, etc.

► See separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number
[redacted]

B Partnership's name, address, city, state, and ZIP code
[redacted]
Seattle, WA 98126

C IRS Center where partnership filed return
e-file

D [ ] Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number
[redacted]

F Partner's name, address, city, state, and ZIP code
[redacted]
Bellevue, WA 98004

G [X] General partner or LLC member-manager [ ] Limited partner or other LLC member

H [X] Domestic partner [ ] Foreign partner

I1 What type of entity is this partner? Individual

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here [ ]

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	51 %	51 %
Loss	51 %	51 %
Capital	51 %	51 %

K Partner's share of liabilities at year end:

Nonrecourse	$
Qualified nonrecourse financing	$
Recourse	$ 11,988.

L Partner's capital account analysis:

Beginning capital account	$ 39,213.
Capital contributed during the year	$
Current year increase (decrease)	$ 73,273.
Withdrawals & distributions	$
Ending capital account	$ 112,486.

[X] Tax basis [ ] GAAP [ ] Section 704(b) book
[ ] Other (explain)

M Did the partner contribute property with a built-in gain or loss?
[ ] Yes [X] No
If 'Yes', attach statement (see instructions)

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	101,100.
2	Net rental real estate income (loss)	
3	Other net rental income (loss)	
4	Guaranteed payments	53,369.
5	Interest income	2.
6a	Ordinary dividends	
6b	Qualified dividends	
7	Royalties	
8	Net short-term capital gain (loss)	
9a	Net long-term capital gain (loss)	
9b	Collectibles (28%) gain (loss)	
9c	Unrecaptured section 1250 gain	
10	Net section 1231 gain (loss)	
11	Other income (loss)	
12	Section 179 deduction	5,434.
13	Other deductions — A	661.
14	Self-employment earnings (loss) — A	154,469.
15	Credits	
16	Foreign transactions	
17	Alternative minimum tax (AMT) items — A	-283.
18	Tax-exempt income and nondeductible expenses — C	21,734.
19	Distributions	
20	Other information — A	2.

*See attached statement for a

FOR IRS USE ONLY

What was earned

Amount taxed on… 30% is $46,340.07
Amount to live on would be $7,029.00

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1065.

Schedule K-1 (Form 1065) 2014

Partner 1

PTPA0312L 11/28/14

Figure 3

Form **1120** — Department of the Treasury, Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2013 or tax year beginning ________________, ending ________________

▶ Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

OMB No. 1545-0123

2013

A Check if:
1a Consolidated return (attach Form 851) ☐
b Life/nonlife consolidated return ☐
2 Personal holding co. (attach Sch. PH) ☐
3 Personal service corp. (see instructions) ☐
4 Schedule M-3 attached ☐

TYPE OR PRINT — Name; Foreign country name; Foreign province/state/county; Foreign postal code

B Employer identification number

C Date incorporated

D Total assets (see instructions) $ 1,406,508

E Check if: (1) [X] Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change

Income	1a	Gross receipts or sales	1a	876,420		
	b	Returns and allowance	1b			
	c	Balance. Subtract line 1b from line 1a			1c	876,420
	2	Cost of goods sold (attach Form 1125-A)			2	319,386
	3	Gross profit. Subtract line 2 from line 1c			3	557,034
	4	Dividends (Schedule C, line 19)			4	
	5	Interest			5	
	6	Gross rents			6	
	7	Gross royalties			7	
	8	Capital gain net income (attach Schedule D (Form 1120))			8	
	9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)			9	
	10	Other income (see instructions—attach statement)			10	
	11	Total income. Add lines 3 through 10 ▶			11	557,034
Deductions (See instructions for limitations on deductions.)	12	Compensation of officers (see instructions—attach Form 1125-E) ▶			12	
	13	Salaries and wages (less employment credits)			13	
	14	Repairs and maintenance			14	
	15	Bad debts			15	
	16	Rents			16	
	17	Taxes and licenses			17	
	18	Interest			18	
	19	Charitable contributions			19	
	20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)			20	
	21	Depletion			21	
	22	Advertising			22	
	23	Pension, profit-sharing, etc., plans			23	
	24	Employee benefit programs			24	
	25	Domestic production activities deduction (attach Form 8903)			25	
	26	Other deductions (attach statement)			26	
	27	Total deductions. Add lines 12 through 26 ▶			27	0
	28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11			28	557,034
	29a	Net operating loss deduction (see instructions)	29a			
	b	Special deductions (Schedule C, line 20)	29b			
	c	Add lines 29a and 29b			29c	0
Tax, Refundable Credits, and Payments	30	Taxable income. Subtract line 29c from line 28 (see instructions)			30	557,034
	31	Total tax (Schedule J, Part I, line 11)			31	189,392
	32	Total payments and refundable credits (Schedule J, Part II, line 21)			32	0
	33	Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ ☐			33	
	34	Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed			34	189,392
	35	Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid			35	0
	36	Enter amount from line 35 you want: Credited to 2014 estimated tax ▶	Refunded ▶		36	0

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer | Date | Title

May the IRS discuss this return with the preparer shown below (see instructions)? ☐ Yes [X] No

Paid Preparer Use Only

Print/Type preparer's name | Preparer's signature | Date | Check ☐ if self-employed | PTIN F

Firm's EIN ▶

Phone no.

State AZ | ZIP code

For Paperwork Reduction Act Notice, see separate instructions.

Form 1120 (2013)

HTA

Figure 3

STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS
December 31, 2013

NET SALES	$ 876,420	Gross
COST OF SALES	319,386	COGS
GROSS PROFIT	557,034	Taxable Income
OPERATING EXPENSES		
Consulting	442,331	
Contract labor	417,204	
Occupancy	102,343	
Depreciation	73,147	
Interest expense	34,637	
Advertising and promotion	32,253	
Management fees (See Note 5)	29,263	
Computer and internet	10,592	
Utilities	9,886	
License and permits	7,739	
Insurance	6,885	
Repairs and maintenance	4,522	
Bank fees	3,985	
Telephone	3,760	
Office supplies	3,441	
Research and development	855	
Travel	557	
Security	448	
Meals and entertainment	299	
Printing	107	
Allocation to inventory	(316,391)	
Total Operating Expenses	867,863	Non-Deductible
INCOME BEFORE INCOME TAXES	(310,829)	
PROVISION FOR INCOME TAXES	(189,781)	Taxes Paid
(Decrease) in Net Assets	(500,610)	Total loss
NET ASSETS, BEGINNING OF YEAR	(337,418)	
NET ASSETS, END OF YEAR	$ (838,028)	