

Order 140-18/19

Motion to postpone to February 20, 2019: 8-0 (Ray absent) on 2/4/2019

Motion to amend by adding "Sec. 14-412. Approvals and required permits.

For purposes of Chapter 14, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and City license.”

Passage 8-0 (Mavodones absent) on 2/20/2018

Motion to amend Sec.14-411. Marijuana Use Regulations by deleting in section 2. after within " 200" and adding "300", in this same section striking out "nearest property line of the respective marijuana related use and" adding "the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility" and finally adding to the same paragraph after "boundary." "If the marijuana related facility leases a room or suite of rooms within a building, including without limitation, individual units within a shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility." Passage: 8-0 (Mavodones absent) on 2/20/2019

Motion to amend by striking out in Sec. 14-47. Definitions., in the Marijuana Retail Store paragraph, " Accessory sales of incidental accessories are permitted, but no food or beverage that is not marijuana product may be sold on the premises." and by adding "A marijuana retail store may sell products in accordance with 28-B M.R.S.A. subsection 504 except that marijuana retail store may not sell products containing alcohol or tobacco. A marijuana retail store may not permit entry to a person under 21 years of age and must ensure that persons under 21 years of age do not enter its licensed premises. A marijuana retail store may not sell any item to a person under 21 years of age."

Motion was made by Councilor Thibodeau and seconded by Councilor Costa to amend this amendment by striking out "A marijuana retail store may sell products in accordance with 28-B M.R.S.A. subsection 504 except that a marijuana retail store may not sell products containing alcohol or tobacco. A marijuana retail store may not permit entry to a person under 21 years of age and must ensure that person under 21 years of age do not enter its licensed premises. A marijuana retail store may not sell any items to a person under 21 years of age." Passage of amendment to the amendment: 8-0 (Mavodones absent)

Passage of amendment as amended: 8-0 (Mavodones absent) on 2/20/2019

Motion to amend to add at the end of the definition of Marijuana Retail Store in Sec. 14-47, “A marijuana retail store shall not include a registered dispensary." Passage: 8-0 (Mavodones absent) on 2/20/2019

Passage as amended: 8-0 (Mavodones absent) on 2/20/2019

Effective 3/22/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 CHAPTER 14
RE: MARIJUANA MEDICAL AND ADULT USE REGULATIONS**

WHEREAS, the State of Maine has enacted statutes allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (collectively, the "medical marijuana uses");

WHEREAS, pursuant to 22 M.R.S. § 2429-D(3), a municipality may not allow such medical marijuana uses to operate in the municipality unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, the State of Maine has also enacted statutes allowing adult use marijuana establishments;

WHEREAS, pursuant to 28-B § 402(1)(A), a municipality may not license adult use marijuana establishments unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, such medical marijuana uses and adult use marijuana establishments are not allowed in the City of Portland unless and until they are licensed by the City, and the passage of this amendment is not the adoption or amendment of an ordinance allowing medical marijuana uses or adult use marijuana establishments; and

WHEREAS, medical marijuana uses and adult use marijuana establishments shall not be allowed in the City until the City passes a comprehensive licensing ordinance for such uses:

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

That Chapter 14, Sections 14-47, 14-182, 14-217, 14-229.11, 14-232, 14-247, 14-262, 14-295, 14-410, and 14-411 are hereby amended to read as follows:

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

Manufactured housing subdivision or development: A parcel of land approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing on individual owned lots.

Marijuana cultivation facility: A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility: A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product: As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store: A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet. A marijuana retail store shall not include a registered dispensary.

Marijuana testing facility: A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

...

Plant canopy: As defined by 28-B M.R.S.A., §102.

...

~~Registered medical marijuana dispensary: "Registered medical marijuana dispensary" or "dispensary" means a not-for-~~

~~profit entity registered under 22 M.R.S.A. section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use, and the registered primary caregivers of those patients.~~

~~Registered medical marijuana cultivation facility: "Registered medical marijuana cultivation facility" means a facility registered under 22 M.R.S.A. section 2428 that cultivates and manufactures marijuana or related supplies for a "registered medical marijuana dispensary" under common management and operating under the same state and local license(s).~~

Registered dispensary: A registered medical marijuana dispensary as defined by 22 M.R.S.A. §2422.

Registered patient: As defined by 22 M.R.S.A. §2422.

...

Small-scale marijuana caregiver: A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Sec. 14-182. Table of uses.

| Group | Use | B-2 ² | B-2b | B-2c |
|-------|-----|------------------|------|------|
|-------|-----|------------------|------|------|

...

| | | | | |
|---|---|---|---|---|
| B | Expansion of existing dairies | Y | Y | Y |
| B | Marijuana retail store | Y | C | C |
| B | Registered medical marijuana dispensaries dispensary | Y | C | C |
| B | Small-scale marijuana caregiver | Y | Y | Y |
| I | Long term, extended and intermediate care facility | Y | Y | Y |

...

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

...

2. *Business:*

...

r. Registered ~~medical marijuana dispensaries~~dispensary;

s. Marijuana retail store;

t. Small-scale marijuana caregiver.

...

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

(a) *Business:*

...

23. ~~Registered medical marijuana~~Marijuana cultivation facilitiesfacility (maximum 7,000 square feet of plant canopy);

24. Marijuana manufacturing facility;

25. Marijuana testing facility;

26. Marijuana retail store;

27. Registered dispensary;

28. Small-scale marijuana caregiver.

...

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the ~~low impact industrial~~I-L zone and the I-Lb zone:

...

(r) ~~Registered medical marijuana~~Marijuana cultivation ~~facilities~~facility (maximum 2,000 square feet of plant canopy).

...

(w) Marijuana manufacturing facility.

(x) Marijuana testing facility.

...

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

...

(v) ~~Registered medical marijuana~~Marijuana cultivation ~~facilities~~facility (maximum 7,000 square feet of plant canopy).

...

(z) Marijuana manufacturing facility.

(aa) Marijuana testing facility.

...

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the ~~high impact industrial~~I-H zone and the I-Hb zone:

...

(t) Registered medical marijuana cultivation facilities.

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial:*

...

22. Registered ~~medical marijuana~~
dispensariesdispensary;

...

28. Marijuana retail store; and

29. Small-scale marijuana caregiver.

...

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

...

(b) No residence shall be occupied, altered or used for any home occupation except the following:

1. Accountants and auditors;

...

29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.

Sec. 14-411. Marijuana Use Regulations.

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

(a) Location Criteria

1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store or registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 300 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility to the nearest applicable residential zone boundary. If the marijuana related facility leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility.

(b) Supplemental Standards

1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.

4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.
5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste; and
 - c. security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

Sec. 14-412. Approvals and required permits.

For purposes of Chapter 14, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing

| facility may operate without the applicable state and City
license.

| **Sec. 14-413-14-420. Reserved.**