

**AMENDMENT 3 TO ORDER 140-18/19
FOR COUNCILOR BELINDA RAY
RE: CHANGE TO ALLOWABLE SALES AT MARIJUANA RETAIL STORES.**

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

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.

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. Accessory sales of incidental accessories are permitted, but no food or beverage that is not a marijuana product may be sold on the premises. A marijuana retail store may sell products in accordance with 28-B M.R.S.A. §504. 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. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.

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 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.

Group1	Use	B-2 ²	B-2b	B-2c
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B	Expansion of existing dairies	Y	Y	Y
B	Marijuana retail store	Y	C	C
B	Registered 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 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. Marijuana cultivation facility (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 I-L zone and the I-Lb zone:

...

- (r) Marijuana cultivation 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) Marijuana cultivation 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 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 dispensary;

...

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 200 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 nearest property line of the respective marijuana-related use and the nearest applicable residential zone boundary.

(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- Sec. 14-420. Reserved.