

ORDINANCE No. 187 557

- * Amend regulations for marijuana businesses to include Laboratories and Research Certificate Holders and clarify Director's authority to determine violations (Ordinance; amend Code Chapter 14B.130 and Portland Policy Document ADM-20.01)

The City of Portland ordains:

Section 1. The Council finds:

1. The Oregon voters approved Measure 91 in November, 2014, legalizing the sale and consumption of marijuana, and allowing local governments to adopt time, place and manner regulations for businesses that grow, produce, sell, and transfer marijuana and marijuana items.
2. HB 3400 was enacted by the 2015 Oregon Legislature, and was signed into law by the Governor on June 30, amending Measure 91 to significantly revise the authority of local governments to adopt regulations for marijuana businesses.
3. In November, 2014, the City Council initiated the Portland Marijuana Policy Program in the Office of Neighborhood Involvement (ONI) to manage complaints, community expectations, and respond with authorized enforcement mechanisms as appropriate.
4. On September 30, 2015, the Council adopted Ordinance No. 187359, added license procedures and requirements for marijuana businesses to Portland City Code Chapter 14B.130. As adopted, the definition of Marijuana Businesses licensed and regulated by the City of Portland included Medical Dispensaries, Marijuana Retailers, Marijuana Producers, Marijuana Processors, and Marijuana Wholesalers.
5. The Oregon Liquor Control Commission (the OLCC) is moving forward with licensing two additional types of businesses not currently reflected in the City Code definitions for Marijuana Businesses. Staff recommends adding two categories of marijuana-related businesses to Chapter 14B.130: Laboratories and Research Certificate Holders. This will allow the City's regulations to work in parallel with the OLCC's, including the ability to respond to requests for information from the OLCC about zoning and siting of these operations, as with other types of Marijuana Businesses, through the Marijuana Land Use Compatibility Statement form. Subsequently, staff also recommends a revision to the fee schedule as reflected in Exhibit A, to recover the administrative costs of processing the land use compatibility statements for these types of businesses.
6. This ordinance also amends the language in 14B.130.100 B.1 to clarify the Director's authority to make a determination that a violation of the chapter has occurred.

NOW, THEREFORE, the Council Directs:

- a. Chapter 14B.130.020 of Portland City Code, is hereby amended to read as follows:

14B.130.020 Definitions.

As used in this Chapter, unless the context requires otherwise, the following definitions apply:

- A. “Applicant” means any individual that is directly involved in the management and operation of, or has at least 10 percent ownership interest in, the marijuana business or medical dispensary in the City.
- B. “Cannabinoid concentrates” means any substance obtained by separating cannabinoids from marijuana by;
 - 1. A mechanical extraction process;
 - 2. A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;
 - 3. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or
 - 4. Any other process identified by the Oregon Liquor Control Commission or the Oregon Health Authority, by rule.
- C. “Cannabinoid edibles” means food or potable liquids into which a cannabinoid concentrate, extract, or dried marijuana leaves or flowers have been incorporated.
- D. “Cannabinoid extracts” means a substance obtained by separating cannabinoids from marijuana by;
 - 1. A chemical extraction process using hydrocarbon-based solvent, such as butane, hexane, or propane;
 - 2. A chemical extraction process using the hydrocarbon based solvent carbon dioxide, if the process uses high heat or pressure, or;
 - 3. Any other process identified by the Oregon Liquor Control Commission or the Oregon Health Authority, by rule.
- E. “Cannabinoid Product” means an edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contain cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include;
 - 1. Usable marijuana by itself;

2. A concentrate by itself;
 3. A cannabinoid extract by itself;
 4. Industrial Hemp, as defined in ORS 571.300.
- F.** “Chief of Police” means the Chief of the Bureau of Police, or the Chief’s designee.
- G.** “Consumer” means a person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale.
- H.** "Director" means the Director of the Office of Neighborhood Involvement, or the Director's designee.
- I.** “Financial consideration” or “For consideration” means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.
- J.** “Licensee” means a person who holds a license issued under PCC Chapter 14B.130.
- K.** “Licensee representative” means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.
- L.** “Licensed premises” means all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms; all areas outside a building that the City has specifically licensed for the production, processing, wholesale sale, retail sale or transfer of marijuana and marijuana items.
- M.** “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” does not include industrial hemp, as defined in ORS 571.300.
- N.** “Marijuana Business” means any location within the City that is licensed or has submitted an application to be licensed by the Oregon Liquor Control Commission as any of the following:
1. “Marijuana processor” means a person who processes marijuana items in this City.
 2. “Marijuana producer” means a person who produces marijuana in the City.

3. “Marijuana retailer” means a person who sells or makes available for purchase marijuana or marijuana items in the City.
4. “Marijuana wholesaler” means a person who purchases marijuana or marijuana items in this state for resale to a person other than a consumer.
- O. “Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
- P. **“Marijuana Laboratory” means any person who is conducting tests of marijuana under Oregon law.**
- P Q. “Marijuana Regulatory License” means a license issued by the City to produce, process, sell or transfer marijuana and marijuana items.
- Q R. “Medical Dispensary” means a business located within the City that is registered with the Oregon Health Authority under ORS 475.314 and authorized to transfer usable marijuana, marijuana items and immature marijuana plants, or a site for which an applicant has submitted an application for registration under ORS 475.314.
- R S. “Sale”, “Sales” or “Sold” means any transfer, exchange or barter, in any manner or by any means, for consideration, and includes all sales made by any person including gifts for the purposes of advertising by marijuana businesses.
- T. **“Research Certificate Holder” means any person authorized under Oregon law to receive marijuana items for the purpose of medical or public health and safety research.**

b. Subsections 14B.130.040.F- G are hereby amended to read as follows:

F. No medical dispensary, ~~or~~ marijuana business, **marijuana laboratory, or research certificate holder** may be located in residential zones RF through RH or where otherwise not allowed per City Code.

G. A person or business operating a medical dispensary, ~~or~~ marijuana business, **marijuana laboratory, or research certificate holder** must comply with all state and local regulations that apply.

c. Subsection 14B.130.100 B.1 is amended to read as follows:

B. Procedure.

1. ~~The Director having made a determination to seek civil penalties as provided by this Section, shall give the Licensee written notice of the~~

~~determination in accordance with the minimum requirements of Chapter 3.130 of Portland City Code.~~ **Having made a determination that a violation of this Chapter has occurred, the Director shall give written notice of a decision to assess civil penalties. The Director's written notice shall be in accordance with the minimum requirements of Chapter 3.130 of the Portland City Code**

- d. The Marijuana Policy Program Regulatory License Fee Schedule, Portland Policy ADM-20.01, is amended and attached as Exhibit A to reflect the fee schedule for the additional categories of Marijuana Businesses.

Section 2. The Council declares an emergency exists because the Oregon Liquor Control Commission will has begun to accept applications for all types of Marijuana Businesses as of January 4 2016, and applicants are requesting Land Use Compatibility Statements from the Office of Neighborhood Involvement, and it is necessary to have local regulations in place to protect the public health and safety; therefore this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: JAN 20 2016

Commissioner Amanda Fritz
Prepared by: Theresa Marchetti
Date Prepared: January 11, 2016

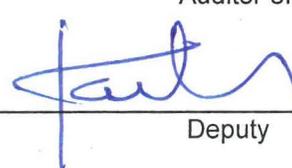
Mary Hull Caballero
Auditor of the City of Portland

By

Susan Parsons
Deputy

Agenda No. **ORDINANCE NO. 187 557**
Title

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INTRODUCED BY Commissioner/Auditor: Amanda Fritz	CLERK USE: DATE FILED _____
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland By:  Deputy ACTION TAKEN:
Mayor—Finance and Administration - Hales	
Position 1/Utilities - Fritz <i>Amanda Fritz</i>	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL	
Bureau: Office of Neighborhood Involvement Bureau Head: Amalia Alarcon de Morris <i>Alarcon</i>	
Prepared by: Theresa Marchetti Date Prepared: 1-11-16	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances <i>Toni</i>	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i>	
Council Meeting Date 1-20-16	

SP ✓

AGENDA
TIME CERTAIN Start time: Total amount of time needed: (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> 15 Total amount of time needed: 30 min (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	_____	