

Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements

City Code Chapter

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(Chapter added by Ordinance No. 187359, effective September 30, 2015.)

14B.130.010 Purpose.

The purpose of this Chapter is to protect and preserve the public health, safety, and general welfare of Portland communities by setting requirements for the licensing and siting of businesses that produce, process, sell or transfer marijuana and marijuana items. The standards and procedures exercise the City's authority in accordance with applicable Oregon statutes and administrative rules. This Chapter is adopted pursuant to authority under Oregon statutes, as well as in exercise of the City Charter home rule authority, to regulate business operations in producing, processing, selling or transferring marijuana and marijuana items within the City. Nothing in this Chapter is intended to promote or condone the sale, transfer, distribution, possession or use of marijuana in violation of applicable laws.

14B.130.020 Definitions.

(Amended by Ordinance Nos. 187557, 188178, 188329, 188602, 189078 and 189183, effective September 26, 2018.) 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 a 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 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 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~~ 269.

~~F. "Chief of Police" means the Chief of the Bureau of Police, or the Chief's designee.~~

GF. "Consumer" means a person who purchases, acquires, owns, holds, or uses marijuana seeds, immature marijuana plants, marijuana or marijuana items other than for the purpose of resale.

HG. "Director" means the Director of the Office of Community & Civic Life, or the Director's designee.

IH. "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.

I. "License Fee Reduction Applicant" means a Marijuana Business that qualifies for Marijuana Regulatory License fee credit pursuant to this Chapter's License Fee Reduction Program.

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 for 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~~ 269.

N. “Marijuana Business” means any business located within the City that is licensed or has submitted or is required to submit an application to be licensed by the Oregon Liquor Control Commission as any of the following;

1. “Marijuana micro-producer tier I” means a person who produces marijuana in the City with an indoor canopy size of up to 625 square feet in the City.

2. “Marijuana micro-producer tier II” means a person who produces marijuana in the City with an indoor canopy size 626 to 1250 square feet in the City.

3. “Marijuana micro-wholesaler” means a person that only purchases or receives seeds, immature plants or usable marijuana from a producer with a micro tier I or tier II canopy for resale to a person other than a consumer in the City.

4. “Marijuana processor” means a person who processes marijuana items in this City.

a. A marijuana processor may only process and sell cannabinoid products, concentrates, or extracts if the processor has received an endorsement from the Director for that type of processing activity. Endorsements types are:

(1) Cannabinoid edible processor;

(2) Cannabinoid topical processor;

(3) Cannabinoid concentrate processor;

(4) Cannabinoid extract processor; and

(5) Micro-tier processor.

b. An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time after being licensed by the Director.

c. In order to apply for a processing endorsement an applicant or licensee must submit a form prescribed by the Director that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.

5. "Marijuana producer" means a person who produces marijuana in the City.

6. "Marijuana retailer" means a person who sells or makes available for purchase marijuana or marijuana items in the City.

7. "Marijuana retail courier" means a marijuana retailer who sells or makes available for purchase marijuana or marijuana items only by delivery to residences located within the City.

8. "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.

Q. "Marijuana Regulatory License" means a license issued by the City to produce, process, sell or transfer marijuana and marijuana items.

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.

S. "Micro-Tier Processor" means a Marijuana Micro-Producer Tier I or Marijuana Micro-Producer Tier II holding an active producer micro-tier processing endorsement issued by the Oregon Liquor Control Commission.

T. "Primary Contact" means the person designated in the application who has authority to conduct business with the City on behalf of the applicant or licensee.

U. “Processor” means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

V. “Produces” means the planting, cultivation, or growing of marijuana.

W. “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.

X. “Sale” or “Sales” 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.

Y. ~~“Social Equity Applicant” means a Marijuana Business that qualifies for Marijuana Regulatory License fee credit pursuant to this Chapter’s Social Equity Program.~~

14B.130.030 License Required.

(Amended by Ordinance No. 189078, effective July 18, 2018.)

A. No person shall establish, conduct, maintain or operate a medical dispensary or marijuana business in the City without a valid marijuana regulatory license issued by the Office of Community & Civic Life.

B. Any person that advertises or otherwise holds themselves to be producing, processing or offering marijuana or marijuana items for sale or financial consideration within the City will be presumed to be a medical dispensary or marijuana business subject to the terms of Chapter 14B.130.

C. No medical dispensary or marijuana business may lawfully exist in the City absent the issuance of a state license and full regulatory oversight of the marijuana establishment by the State as well as the City. Compliance with the requirements of this Chapter does not provide a defense to criminal prosecution under otherwise applicable law.

14B.130.040 Minimum Standards.

(Amended by Ordinance Nos. 187391, 187557, 188178, 188602, 189078 and 189183, effective September 26, 2018.)

A. A marijuana regulatory license may only be issued for a specific, fixed location which shall be considered the licensed premises. The licensed premises must be within a building or structure subject to a building or zoning permit.

B. If the location is a medical dispensary, the location may be no closer than 1,000 feet of another medical dispensary. The distance between the dispensaries shall be computed by direct measurement of the nearest portion of the building in which one medical dispensary is located to the nearest portion of the building in which the other medical dispensary is located.

C. Except for marijuana retail couriers, if the location is a marijuana retailer, the location may be no closer than 1,000 feet of another marijuana retailer. The distance between the retailers shall be computed by direct measurement of the nearest portion of the building in which one marijuana retailer is located to the nearest portion of the building in which the other marijuana retailer is located.

D. Distance Restrictions for Dispensaries and Retailers.

1. Except for marijuana retail couriers, a marijuana regulatory license will not be granted for a medical dispensary or a marijuana retailer that is within 1,000 feet of another medical dispensary or another marijuana retailer. The distance between the dispensaries and retailers shall be computed by direct measurement of the nearest portion of the building in which one medical dispensary or marijuana retailer is located to the nearest portion of the building in which the other medical dispensary or marijuana retailer is located.

2. The distance requirement in Subsection 14B.130.040 D.1. shall not apply for applications for medical dispensary licenses received by the Director between November 1, 2015 and January 29, 2016, that meet the following criteria:

a. The medical dispensary has been:

(1) Registered, operating and in good standing with the Oregon Health Authority since on or before July 1, 2015 and had a valid City of Portland Business License on or before July 1, 2015.

(2) Registered and in good standing with the Oregon Health Authority since on or before September 30, 2015, if the Director finds that the applicant demonstrates that they incurred significant financial obligations prior to that date, such as

entering a lease, hiring employees, or obtaining fixtures and equipment, and had a valid City of Portland Business License on or before September 30, 2015.

b. The medical dispensary has no outstanding compliance issues pending with the Oregon Health Authority.

c. The application for the medical dispensary has not submitted for or obtained a marijuana regulatory license for a marijuana retailer within 1,000 feet of the location to be licensed under this exception; and

d. The applicant meets all other requirements of this Chapter.

3. The requirements of Subsection D.1. shall not apply to current, valid renewal applications for medical dispensary licenses issued under Subsection D.2.

4. The distance requirement in Subsection 14B.130.040 D.I., shall not apply for applications for marijuana retail licenses received by the Director that meet the following criteria:

a. The application is from an existing medical dispensary licensee operating under a current, valid medical dispensary located within the City of Portland;

b. The marijuana retail license application is for the same address at which the medical dispensary is currently operating;

c. The medical dispensary has no outstanding compliance issues pending with the Oregon Health Authority;

d. Upon issuance of a marijuana retail license from the State an applicant, under conditional approval for a marijuana retailer license, may operate without a Marijuana Regulatory License for a period of no longer than 5 business days to allow for the transition from the medical market to the recreational market;

e. The applicant meets all other requirements of this Chapter.

E. No medical dispensary, marijuana retailer or marijuana retail courier may locate its licensed premises for business operations within 1,000 feet of:

1. Any public elementary or secondary school for which attendance is compulsory under ORS 339.020 (2013); or

2. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1) (a) (2013).

3. The distance from a school to a medical dispensary or a marijuana business retailer shall be computed by direct measurement from the nearest property line of the land used for the school to the nearest portion of the building in which the medical dispensary or marijuana retail business is located.

4. If a school described in Subsection 14B.130.040 D. that has not previously been attended by children is established within 1,000 feet of a medical dispensary, marijuana retailer or marijuana retail courier for which a license has been issued under Chapter 14B.130, the medical dispensary, marijuana retailer or marijuana retail courier located at that premises may remain at that location unless:

a. The Office of Community & Civic Life revokes the license of the marijuana business under Section 14B.130.110; or

b. A new application is required.

F. No medical dispensary, marijuana business, marijuana laboratory, or research certificate holder may be located in residential zones ~~RF through RH~~ RF through RM4 and RMP or where otherwise not allowed per City Code.

G. A marijuana retail courier may not operate their licensed premises as being generally open to the public for business. All sales must be conducted off-site by delivery to consumers in accordance with the standards established in OAR 845-025-2880, as in effect on December 1, 2016.

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

14B.130.050 Application Procedure.

(Amended by Ordinance Nos. 188178, 188602, 189078 and 189183, effective September 26, 2018.)

A. Applications for marijuana regulatory licenses will be processed in the order they are received by the Director. The application shall not be considered received until all the required information and documentation has been submitted and the

application fee has been paid. An applicant for a marijuana regulatory license shall complete an application that includes the following information:

- 1.** All completed forms fully executed and signed, including:
 - a.** Personal history forms, as developed by the Office of Community & Civic Life, for any person with ownership greater than 10 percent or who will be directly involved in the management or operation of the proposed medical dispensary or marijuana business for review of the application under Subsection 14B.130.070 C.
 - b.** An information form, as developed by the Office of Community & Civic Life that includes a description of the planned business operations and a security plan describing how the applicant intends to comply with the requirements of Section 14B.130.080.
 - c.** If the application is for a medical dispensary or marijuana retailer, a Marijuana Control Plan to address security protocols, potential nuisance activities and other public safety concerns.
- 2.** A Business License Certificate of Compliance as provided in Section 7.02.300, and;
- 3.** Documentation of having an existing security system, ~~and proof of application submittal for an~~security alarm permit from the Portland Police Bureau, and electrical permit or equivalent -from the Bureau of Development Services as needed for the premise.
- 4.** Documentation of having an existing air filtration system or proof of application submittal for applicable permits to ensure odor impacts upon neighboring properties are minimized.
- 5.** Proof of ownership or legal possession of the premises to be licensed for the term of the proposed license. If the licensed premises will be leased, the application shall include, a true and complete copy of the executed lease showing the property owner has authorized the use as a medical dispensary or marijuana business.
- 6.** Marijuana producers and processors must provide documentation showing that an applicable commercial building permit has been issued or obtained. Marijuana processors of cannabinoid extracts must also provide documentation showing that the applicable commercial building permit, mechanical permit(s) for extraction

equipment, and tank permit(s) from the City Fire Marshal's Office have been obtained and received final inspection approval. The documentation for a commercial building permit may include a temporary Certificate of Occupancy.

7. A non-refundable application fee as stated in the fee schedule adopted by City Council. Fees will be updated annually or on an as needed basis and will be sufficient to cover the cost of administering this Chapter. The approved fee schedule will be available through the Office of Community & Civic Life.

8. The Director may, at the Director's discretion, require additional documentation associated with the application as may be relevant to the requirements of this Chapter. To the extent any materials have been included with the applicant's state license application and forwarded to the City by the state licensing authority, the Director may rely upon the information forwarded from the state without requiring submittal of the same materials in conjunction with the marijuana regulatory license application.

9. The licensee shall notify the Office of Community & Civic Life of any changes in the information required in Subsections 14B.130.050 A.1.a.-c. within 10 business days of the change. If ownership of the licensed entity changes by 51 percent or more, a new application is required.

B. Applications for renewal of marijuana regulatory licenses must demonstrate compliance with Subsections 14B.130.050 A.1.-9. on a form provided by the Office of Community & Civic Life and pay an annual fee as stated in the fee schedule adopted by City Council.

14B.130.055 Social Equity License Fee Reduction Program.

(Added by Ordinance No. 189183, effective September 26, 2018.)

A. Applicants may request participation in the Social Equity License Fee Reduction Program by demonstrating qualifications on a form provided by the Office of Community & Civic Life.

1. To qualify as a Social Equity License Fee Reduction Applicant, the applicant must demonstrate at least one of the following qualifying factors:

a. Applicant provides opportunities to individuals directly impacted by criminal prosecutions during cannabis prohibition as demonstrated by:

(1) 25 percent or greater of ownership is represented by individuals with a federal or state conviction for a criminal offense committed prior to July 1, 2015 in which possession, delivery or manufacture of marijuana or marijuana items is an element, whether misdemeanor or felony; or

(2) 20 percent or greater of staff hours are represented by individuals with a federal or state conviction for a criminal offense committed prior to July 1, 2015 in which possession, delivery or manufacture of marijuana or marijuana items is an element, whether misdemeanor or felony.

b. Applicant is a small business as demonstrated by:

(1) The business entity seeking the license and all business entities, including any parent companies, associate companies, subsidiaries or affiliates, with an ownership interest of 10 percent or greater, have a combined annual total income less than \$750,000 in the preceding calendar year; and

(2) In total, no more than two other state recreational or medical cannabis licenses are pending for or have been obtained by the business entity seeking the license and all individuals and entities with 10 percent or greater ownership interest, including any parent companies, associate companies, subsidiaries or affiliates business entity owners.

c. Applicant is a small business, as defined by Portland City Code Subsection 14B.130.055 A.1.b., and contracts with an ancillary industry vendor(s) certified by the State of Oregon as an emerging small business, pursuant to OAR 123-200-1700, and/or as socially and economically disadvantaged, pursuant to OAR 123-200-1210.

(1) If the application is for a new license, the entity seeking the license must have paid the vendor(s) a total of at least \$30,000 during the 24 months immediately preceding license issuance, for expenses directly related to the marijuana business seeking the license.

(2) If the application is for a renewal license, the entity seeking the license must have paid the vendor(s) a total of at least \$30,000 during the most recent licensing period, for expenses directly related to the marijuana business seeking the license.

(3) The marijuana business, or any owners, including any parent companies, associate companies, subsidiaries or affiliates, must not have any shared ownership with the ancillary industry vendor(s) or its parent companies, associate companies, subsidiaries or affiliates.

2. A Social Equity License Fee Reduction Applicant that meets one of the qualifying factors shall receive Marijuana Regulatory License fee credits as follows:

a. 15 percent credit from the Marijuana Regulatory License fee; and

b. If the application is for a producer or processor marijuana regulatory license, the Social Equity License Fee Reduction Applicant will receive credit in the form of a license fee credit for documented payments to Bureau of Development Services for related Life Safety Preliminary Meetings and Early Assistance Meetings, or substantially similar assistance programs available at Bureau of Development Services. The license fee credit will be up to the lesser of \$750 or the total license fee.

c. Requests for credit should be directed to the Office of Community and Civic Life. All such credits will be deducted from the Marijuana Regulatory License fees.

3. A Social Equity License Fee Reduction Applicant that meets at least two of the qualifying factors shall receive Marijuana Regulatory License fee credit as follows:

a. 25 percent credit from the Marijuana Regulatory License fee; and

b. If the application is for a producer or processor marijuana regulatory license, the Social Equity License Fee Reduction Applicant will receive credit in the form of a license fee credit for documented payments to Bureau of Development Services for related Life Safety Preliminary Meetings and Early Assistance Meetings, or substantially similar assistance programs available at Bureau of Development Services. The license fee credit will be up to the lesser of \$1,500 or the total license fee.

c. Requests for credit should be directed to the Office of Community and Civic Life. All such credits will be deducted from the Marijuana Regulatory License fees.

14B.130.060 Notice.

~~A. The Director shall provide notice of an application before a final decision is made to the Bureau of Police, Portland Fire & Rescue, Bureau of Revenue and Financial Services, and Bureau of Development Services.~~

~~B. For medical dispensaries and marijuana business retailers, the Director shall provide notice of an application before a final decision is made to:~~

~~1. Property owners and property occupants within 300 feet of the proposed licensed premises except for renewal applications and locations previously licensed for the proposed use with change in ownership;~~

~~2. The District Coalition Office and Neighborhood Association in which the marijuana regulatory Licensee is located, or proposed to be located.~~

~~3. Area residents by posting a public notice where the marijuana regulatory licensee is located, or proposed to be located.~~

14B.130.070 Issuance and Renewal of the License.

(Amended by Ordinance Nos. 188178, 188329, 188602, 189078 and 189183, effective September 26, 2018.)

A. Upon filing of an application and payment of the required application fee, the Director shall ensure that the location proposed to be licensed or registered meets the minimum standards as defined in Section 14B.130.040. If the proposed location meets the minimum standards the Director shall proceed with processing the application. If the location does not meet the minimum standards the Director shall deny the application.

B. If the proposed location meets the minimum standards as defined in Section 14B.130.040, the Director ~~in consultation with the Chief of Police,~~ shall conduct an investigation of the application and all principals listed according to the requirements in Subsection 14B.130.050 A. If no cause exists for denial, the Director shall issue the license after the following has been received;

1. Proof that a state license or registration has been issued.

2. The license fee as stated in the fee schedule adopted by City Council. Fees, including late fees, will be updated annually or on an as needed basis and will be

sufficient to cover the cost of administering this Chapter. The approved fee schedule will be available through the Office of Community & Civic Life.

a. Applicant may request a license fee deferred payment plan by submitting a form provided by the Office of Community & Civic Life to demonstrate financial need.

b. If the applicant's deferred payment plan request is approved by the Director, fees must be paid as follows:

(1) Any marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana micro-wholesaler, or marijuana courier must make an initial payment of \$250 before the Director issues the license. The licensee must pay the remaining license fee of \$750 within 6 months of the license effective date.

(2) Applicants for all other license types must make an initial payment of \$500 before the Director issues the license. The licensee must pay the remaining license fee of \$3,000 within 6 months of the license effective date.

c. For any marijuana micro-producer tier I, marijuana micro-producer tier II, marijuana micro-wholesaler, or marijuana courier, payments made up to 30 days after the 6-month due date must include a late fee of \$100. Payments made after 30 days and up to 60 days after the 6-month due date must include a late fee of \$200.

d. For all other license types, payments made up to 30 days after the 6-month due date must include a late fee of \$250. Payments made after 30 days and up to 60 days after the 6-month due date must include a late fee of \$500.

e. Failure to pay the total licensing fee, including late fees, within 60 days after the 6-month due date constitutes a violation and the Director may impose civil penalties, license suspension, and/or license revocation.

f. Failure to pay the total licensing fee, including late fees, within 60 days after the 6-month due date constitutes shown non-compliance and the Director may deny future requests for deferred payments.

C. Except as provided for in Subsection 14B.130.070 D., the Director shall deny an initial or renewal application for a marijuana regulatory license if any of the following apply.

1. The applicant, or any person engaged in the direct management and operation of the medical dispensary or marijuana business, or anyone with 10 percent or more interest in the business has previously owned or operated a business regulated by Chapter 14B.130; and

a. The license has been revoked for cause that would be grounds for revocation pursuant to Chapter 14B.130.

b. The Director has determined that the business has contributed to crime or livability incidents in the area where the medical dispensary or marijuana business is located.

2. Any statement in the application is false or any required information is withheld;

3. If the application is for a medical dispensary, the location is not registered with the state under ORS ~~475.314~~ 475B.858;

4. If the application is for a marijuana business, the location is not licensed with the Oregon Liquor Control Commission;

5. The Director finds by preponderance of the evidence that the applicant or any person directly engaged in the management and operation of the medical dispensary or marijuana business has violated local or State law including a permitting or licensing requirement.

D. Notwithstanding Subsection 14B.130.070 B., the Director may grant a license ~~after consulting with the Chief of Police~~ despite the presence of one or more factors as outlined in Subsection 14B.130.070 C., if the applicant establishes to the Director's satisfaction that,

1. The behavior evidenced by such factor is not likely to reoccur;

2. The behavior evidenced by such factor is remote in time; or

3. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to this Chapter.

E. Marijuana regulatory licenses are valid for a term of 1 year and a renewal schedule will be established by rule. The license is non-transferable upon a change of ownership and valid only for a single fixed location.

1. When the business location is to be changed, the licensee shall provide the address of the new location in writing to the Director to review for compliance with the requirements of this Chapter at least 60 days prior to the change.

2. A person with multiple dispensaries or business locations must apply for and obtain a license for each separate location.

F. Upon denial of an application for a marijuana regulatory license, the Director shall give the applicant written notice of the denial in accordance with the minimum requirements of Chapter 3.130 of Portland City Code.

1. Service of the notice shall be by mail or electronic delivery to the address of the primary contact for the application on file with the Director. In addition, the Director may also send notices to other addresses known for the applicant or person including electronic delivery.

2. Mailing of the notice will be prima facie evidence of receipt of the notice.

G. The denial will be effective the date the notice is sent.

H. Denial of a marijuana regulatory license may be appealed by filing written notice of an appeal within 10 business days of the date of denial in accordance with Section 14B.130.120.

14B.130.080 Requirements.

(Amended by Ordinance Nos. 187391, 187611, 188178 and 189183, effective September 26, 2018.)

A. A marijuana regulatory licensee must comply with the following regulations:

1. Licensee must display the marijuana regulatory license at the business location in a manner readily visible to patrons.

2. Licensee may not allow consumption of marijuana or marijuana items on the premises licensed under Chapter 14B.130, except as specifically authorized by Oregon law for employees of medical marijuana dispensaries who are valid, current registry identification cardholders.

3. Licensee must install and maintain in proper working order at the licensed premises a security system including alarms, safes, and surveillance cameras.

a. Licensee must maintain camera surveillance data backup.

b. Licensee must retain camera surveillance data for a minimum of 30 days.

4. Licensee must correct any violations and comply with any stop work orders issued by any City Bureau.

B. Any person with a marijuana regulatory license for a medical dispensary or marijuana retailer must comply with the following regulations:

1. Licensee must designate personnel at the entrance intended for consumers to require all persons entering the premises to produce an approved form of identification according to ORS 614.24.1.a-e in order to ensure that no one under the age of 21 is allowed on the premises, except as provided for under ORS ~~475.314~~ 475B.858.

2. Licensee must maintain hours of operation no earlier than 7 a.m. and no later than 10 p.m.

3. Licensee must not make marijuana or marijuana items available for sale from a vendor cart, temporary structure, or satellite location, or through exterior openings of the licensed premises, such as drive-thru facilities or walk up windows.

C. Any person with a marijuana regulatory license for a marijuana retailer must comply with the following regulations:

1. Licensee may provide delivery of marijuana and marijuana items to a residence in Portland in accordance with OAR 845-025-2880, as in effect on December 1, 2016 and subject to compliance with the requirements of this Chapter.

2. Licensee may sell marijuana items for medical purposes in accordance with OAR 845-025-2900, effective December 1, 2016.

D. Any person with a processor marijuana regulatory license or micro-tier processor endorsement must comply with the following requirements:

1. Licensee must not allow the licensed location to be open to the general public.

2. Licensee must adhere to applicable state and local regulations for food production, ensuring that marijuana items made for consumption by eating or drinking are processed in a licensed facility.

E. Any person with a marijuana micro-producer tier I, marijuana micro-producer tier II, [marijuana producer tier I or tier II](#), [marijuana retail courier](#), marijuana micro-wholesaler or marijuana wholesaler marijuana regulatory license must comply with the following requirements:

1. Licensee must not allow the licensed location to be open to the general public.

14B.130.090 Inspection of Property and Records.

(Amended by Ordinance Nos. 188178, 188602 and 189078, effective July 18, 2018.)

A. Upon presentation of proper credentials, an Applicant or Licensee shall allow any representative of the Bureau of Police or the Office of Community & Civic Life to enter the business location to ensure compliance with the provisions of Chapter 14B.130. The inspection will be for the limited purpose of inspecting the property and related records as provided in this Chapter and the administrative rules. Except by mutual agreement with the Applicant or Licensee or by court order, any inspection under this Section may occur only during the business' normal business hours.

1. The Director shall first present proper credentials and demand entry to the property. If entry is refused, the Director may attempt to secure entry by any legal means.

2. If the Director has first obtained an inspection warrant to secure entry onto the property, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Director to the property.

B. It shall be unlawful for any owner or occupant to refuse to permit entry by the Director to inspect the property under this Chapter after an inspection warrant has been obtained.

C. Grounds for Issuance of inspection warrants.

1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant,

the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the property to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

2. Cause. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any property, or there is probable cause to believe that a condition of nonconformity with this Chapter exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity this Chapter.

D. Procedure for Issuance of inspection warrants.

1. Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

2. Issuance. If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8 a.m. and 6 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

3. Police Assistance. In issuing an inspection warrant on unoccupied property, including inspection warrants pursuant to Section 14B.130.090, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to ensure the safety of the Director or representative of the bureau in completing the inspection.

E. Execution of inspection warrants.

- 1. Occupied Property.** Except as provided in Subsection 2. of this Section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
- 2. Unoccupied Property.** In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in Subsection 1. of this Section, but may promptly enter the property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.
- 3. Return.** An inspection warrant must be executed within 10 business days of its issue and returned to the judge by whom it was issued within 10 business days from its date of execution. After the expiration of the time prescribed by this Subsection, the warrant unless executed is void.

14B.130.100 Penalties.

(Amended by Ordinance Nos. 187557 and 188178, effective December 21, 2016.)

A. The Director may assess civil penalties in an amount up to \$5,000 for any violation of this Chapter.

B. Procedure.

1. 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.

2. Service of the notice shall be by mail or electronic delivery to the address of the primary contact for the Licensee on file with the Director. In the case of a person operating without a Marijuana Regulatory License, service of the notice shall be by mail to such address as the Director has on file for that person, or is otherwise available to the Director. In addition, the Director may also send notices to other addresses known for the person including electronic delivery.

3. Mailing or electronic delivery of the notice will be prima facie evidence of receipt of the notice.

4. The civil penalty will be due 10 business days from the date of the notice unless appealed in accordance with Section 14B.130.120.

C. In determining the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Director shall consider:

1. The extent and nature of the person's involvement in the violation;
2. The economic or financial benefit accruing or likely to accrue as a result of the violations;
3. Whether the violations were repeated or continuous, or isolated and temporary;
4. The magnitude and seriousness of the violation;
5. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
6. Any other factors the Director may deem to be relevant.

14B.130.110 Revocation or Suspension of License.

(Amended by Ordinance Nos. 188178 and 189078, effective July 18, 2018.)

A. The Director may, ~~after consulting with the Chief of Police,~~ revoke or suspend any license issued pursuant to this Chapter.

1. For any cause that would be grounds for denial of a license; or,
2. Upon finding that any violation of the provisions of this Chapter, State, or local law has been committed and the citation is connected with the operation of the licensed business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location.
3. If payment of civil penalties has not been received within 10 business days by the Office of Community & Civic Life.

B. The Director, upon revocation or suspension of any license issued pursuant to this Chapter, shall give the Licensee written notice of the revocation or suspension in accordance with the minimum requirements of Chapter 3.130 of Portland City Code.

1. Service of the notice shall be by mail or electronic delivery to the address of the primary contact for the Licensee on file with the Director. In addition, the Director may also send notices to other addresses known for the applicant or person including electronic delivery.

2. Mailing or electronic delivery of the notice by regular mail will be prima facie evidence of receipt of the notice.

C. Revocation will be effective and final 10 business days after the date of notice unless the revocation is appealed in accordance with Section 14B.130.120.

D. Suspension will be effective immediately upon the date of the notice, for the period of time set in the notice not to exceed 180~~30~~ days.

14B.130.120 Review by the Director and Appeals to the Code Hearings Officer.

(Amended by Ordinance No. 188178, effective December 21, 2016.)

A. Any determination issued pursuant to Sections 14B.130.070, 14B.130.100 or 14B.130.110 believed to be made in error may be reviewed by the Director if requested by the recipient. The request must be submitted in writing within 10 business days of the determination, and must include all evidence that supports the request. Service of notice of the determination shall be by mail or electronic delivery to the address for the primary contact for the application on file with the Director. The Director's determination shall be served by regular mail or electronic delivery. Mailing or electronic delivery of the notice of determination will be prima facie evidence of receipt of the notice. In addition, the Director may also send notice of the determination to other addresses known for the applicant or person including electronic delivery.

B. The Director's determination may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code.

C. The filing of a notice of appeal of revocation or suspension of a license, or of a civil penalty imposed by the Director under this Chapter, will stay the effective date of the action until the Code Hearings Officer issues an opinion.

14B.130.130 Severability.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, void, illegal or unconstitutional, either on its face or as applied, such decision shall not affect the applicability, constitutionality, legality or validity of any remaining portions of this chapter. The Council hereby declares its intention to have adopted this chapter, and each section, subsection, sentence, clause, and phrase of this chapter, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid, void, illegal or unconstitutional, and that the same would have been adopted by the Council had such invalid, void, illegal or unconstitutional sections, subsections, sentences, clauses, or phrases, if any, not been included in this Chapter.