

Amendments
9-30-15

Exhibit A

#1002 EXHIBITS

Exhibits A, B and C as amended 9/23/15 with proposed amendments for 9/30/15 to Exhibit A
Section 14B.130.040 D (pgs. 5 & 6)

— ATTACHED

Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements

14B.130.010 Purpose

14B.130.020 Definitions

14B.130.030 License Required

14B.130.040 Minimum Standards

14B.130.050 Application Procedure

14B.130.060 Notice

14B.130.070 Issuance and Renewal of the License

14B.130.080 Requirements

14B.130.090 Inspection of Property and Records

14B.130.100 Penalties

14B.130.110 Revocation or Suspension of License

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

14B.130.130 Severability

Exhibit A

9-30-15
AMENDMENTS**14B.130.030 License Required**

- 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 Neighborhood Involvement.
- 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

- A. A marijuana regulatory license may only be issued for specific fixed locations which shall be considered the licensed premises. The licensed premises must be within a building or structure subject to permit review and approval under the Oregon Structural Specialty Code, fire code and related building codes as promulgated by the Oregon Department of Consumer and Business Services. Licensee must obtain the appropriate permits and remain in compliance with fire and building codes.
- 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. 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. 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

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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 from November 1, 2015 to January 29, 2016, that meet the following criteria:

- a. The medical dispensary has been registered, operating and in good standing with the Oregon Health Authority since on or before January 1, 2015.
- b. The medical dispensary has no outstanding compliance issues pending with the Oregon Health Authority.
- c. The medical dispensary has had a valid City of Portland Business License since on or before June 30, 2015.
- d. The application for the medical dispensary has not submitted for or obtained a marijuana regulatory license for a marijuana retailer within 1,000ft of the location to be licensed under this exception.
- e. 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.

E. No medical dispensary or marijuana retailer may operate or conduct business 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



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

AMANDA FRITZ, COMMISSIONER

Amalia Alarcón de Morris, Bureau Director
Community & Neighborhood Involvement Center

1221 SW 4th Avenue, Room 110
Portland, Oregon 97204

Promoting a culture of civic engagement

Date: September 29, 2015

187 359

To: City Council

From: Theresa Marchetti and Víctor Salinas
Office of Neighborhood Involvement

Re: Amendment request for Council Agenda Item 1002

**Adopt regulations for marijuana license procedures and requirements
(Previous Agenda 966; add Code Chapter 14B.130 and amend Section
3.96.060)**

In order to be responsive to the concerns of medical marijuana patient cardholders, employed at medical dispensaries within the City of Portland, about their ability to medicate at work as necessary for their medical conditions pursuant to OAR 333-008-1200. The following changes are needed in Section 14B.130.080 A.2 on Agenda Item 1002. The amendment will be presented at the Council meeting on September, 30, 2015.

Section 14B.130.080 A.2

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.





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187 359

Date: 9-23-15

To: City Council

From: Theresa Marchetti and Víctor Salinas

Re: Request for Amendments to Council Agenda Item *984

Adopt regulations for marijuana license procedures and requirements (Previous Agenda 966; add Code Chapter 14B.130 and amend Section 3.96.060)

At the request of Council on September 16th, 2015, several amendments are needed to Exhibits A Code Language and B Fee Schedule. Additionally, staff identified several scrivener's errors in Exhibit C Public Involvement Process Summary. The amendments are as follows:

Exhibit A – Marijuana License Procedures and Requirements

Title Page:

14B.130.130 Severability

Section 14B.130.040 D. 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.

Section 14B.130.080 B.1. Licensee must designate personnel at the entrance intended for ~~customers~~ 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.

Section 14B.130.130 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.

Exhibit B: Fee Schedule

~~Effective Date: September 16, 2015~~ Effective Date: September 23, 2015

Application Fees

~~Marijuana Dispensary \$750~~ Marijuana Dispensary \$975

~~Marijuana Retailer \$750~~ Marijuana Retailer \$975

License and Renewal Fees

~~Marijuana Dispensary \$1,750~~ Marijuana Dispensary \$2,000

~~Marijuana Retailer \$3,000~~ Marijuana Retailer \$4,175

Exhibit C: Public Involvement Summary

~~Public Involvement Process Summary to develop Policy to License and Regulate Medical Dispensaries and Marijuana Business seeking to operate within Portland city limits.~~

Purpose

The Marijuana Policy Program developed a public involvement process to engage community and industry stakeholders in the development of City policies to license and regulate medical dispensaries and marijuana business seeking to operate within Portland city limits. We convened a

Community Stakeholder Workgroup on a bi-monthly basis July through September to provide recommendations and feedback in drafting code language for Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements. In addition, we hosted a Town Hall Series to facilitate a ~~dialogue~~ dialogues about the newly created Marijuana Policy Program. Both of these efforts allowed us to receive input to ensure community safety and livability concerns ~~are~~ were addressed as we integrate the emergent marijuana industry into the business community of Portland.

Objectives

Develop City ~~P~~olicies to license and regulate medical dispensaries and marijuana businesses in response to the needs and priorities of the community.

Increase the legitimacy and accountability of the Marijuana Policy ~~p~~Programs and provide an opportunity for community members to voice their suggestions and concerns to inform the development of City policies to license and regulate medical dispensaries and marijuana businesses ~~within Portland City Limits~~.

Public Involvement Process Design

Marijuana Policy Community Stakeholder Workgroup

The Community Stakeholder Workgroup was convened to help shape City policies to license and regulate medical dispensaries and marijuana businesses ~~within Portland city limits~~; and to establish expectations to integrate the marijuana industry into business community of Portland through a legitimately regulated system. We conducted a community scan and identified stakeholders to represent community and industry interests ~~at the meetings~~. On average we engaged 15 representatives from the ~~N~~neighborhoods ~~S~~system, ~~C~~culturally and ~~I~~identity-specific ~~G~~groups and industry representatives at each meeting. Meeting agendas included a summary of previous meetings and a review of draft code language of Chapter 14B.130. After each meeting program staff reviewed recommendations and incorporated them to future revisions of the code language for review.

Town Hall Series on Marijuana Policy for the City of Portland

Town Hall meetings were designed to inform the Marijuana Policy Program on community concerns, priorities and expectations in developing policies for medical dispensaries and marijuana business to operate ~~within Portland City Limits~~ in Portland. Meeting agendas included a presentation that outlined the basic components of the draft policy, a listening session to receive community recommendations and a question and answer dialogue with a panel of City Officials including Commissioner Amanda Fritz and staff, representatives from the Office of Neighborhood Involvement including Marijuana Program Policy staff, representatives from the Bureau of Development Services, Portland Fire and Rescue and the Portland Police Bureau; to address questions about the new marijuana laws in Oregon and their impacts to Portland residents.

The outreach and promotion plan for the Town Hall series included press releases, email communications to community partners, promoting the series at Nneighborhood Association and Community Group meetings, print media and radio earned ad space, and promotion through social media including Facebook, Twitter and Nextdoor. There were approximately 100 participants in attendance at the meetings which included participation from Nneighborhood Representatives, Culturally Specific Community Groups, Industry Representatives and cross-cultural and cross-generational community members at large.

Salient Themes and Recommendations ~~through~~ from the Public Involvement Process

~~The following list of salient themes and recommendations informed are reflected in the proposed City Code Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements:~~

- ~~Avoid preferential treatment for existing~~ Medical Dispensaries opting into soft-start sales; ~~regulations by starting~~ October 1st, 2015.
- ~~Restricting~~ access to minors.

- Work with the State to ensure the soft_start does not encourage the illegal market.
- Ensure the Marijuana Business Control Plan does not unreasonably affect business operations.
- ~~Address social environments including smoking lounges and events; responsible consumption.~~
- Use an Equity lens: Create opportunity for small growers, emerging business owners, and women and communities of color to access the market.
- ~~Develop programs to address and educate about marijuana addiction and prevention.~~
- Limit concentrations and saturation of adult businesses in the City i.e. bars, liquor stores, marijuana retailers, lottery etc. (~~Buffer between dispensaries and retailers~~)
- Create Buffer zones between Mmedical Dispensaries and Retail Mmarijuana Businesses.
- ~~Ensure Marijuana Control Plan does not affect business operations.~~
- ~~Create opportunity for small growers, emerging business owners and communities of color to access the market.~~
- Create policies in time for October 1st sales.
- Develop programs to address marijuana addiction and prevention awareness.; Support responsible consumption awareness.
- ~~Limit concentrations of adult businesses in the City i.e. bars, marijuana retailers, lottery etc.~~

- Support legal business and go after “bad actors”. The Program is only as good as its enforcement.

Summary

The Marijuana Policy Program benefited greatly by the input received from ~~the community~~ stakeholders and the proposed legislation is a direct reflection of the ~~input~~ recommendations provided. The Marijuana Policy Program will continue the partnership with industry and residents as the program continues to develop and to address other concerns as they arise.



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187 359

Date: 9-16-15

To: City Council

From: Theresa Marchetti and Víctor Salinas

Re: Request for Amendments to Council Agenda Item *966

Adopt regulations for marijuana license procedures and requirements (Ordinance introduced by Commissioner Fritz; add Code Chapter 14B.130 and amend Section 3.96.060)

We appreciate the Auditor and the Ombudsman bringing to our attention the recently adopted changes to Portland City Code 22.10 and 3.130 related to the appeals process. Adherence with current City Code requires the following changes to Exhibits A and B:

Exhibit A – Marijuana License Procedures and Requirements

Title Page:

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

Section 14B.130.070 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.

Section 14B.130.100 B. 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.

Section 14B.130.110 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.

Section 14B.130.110 C. Revocation will be effective and final 10 days after the date of notice unless the revocation is appealed in accordance with ~~Section 14B.90.150~~ 14B.130.120.

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

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 15 days of the determination, and must include all evidence that supports the request. The Director's determination shall be served by regular mail.

B. The Director's determination may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code. Requests for appeal hearings must be filed with the Office of Neighborhood Involvement within 10 business days of the determination.

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.

Exhibit B: Fee Schedule

Additional Fees:

~~Code Hearing Appeal Fee \$1,750~~ Administrative Review Fee \$250

Additionally, in adherence to current Police Bureau protocols, we propose the following language be amended from Exhibit A:

Section 14B.130.090 D.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

~~remove any person or obstacle and assist the~~ to ensure the safety of the
Director or representative of the bureau ~~inspecting the property in any way~~
~~necessary to complete~~ in completing the inspection.



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Date: 9-15-15

187 359

To: City Council

From: Theresa Marchetti and Victor Salinas

Re: Amendment Request for Council Agenda Item 966

Adopt regulations for marijuana license procedures and requirements (Ordinance introduced by Commissioner Fritz; add Code Chapter 14B.130 and amend Section 3.96.060)

Due to an oversight and additional information from our partners in Multnomah County, the following changes are needed to Exhibit A – Marijuana Regulatory License and Requirements Code Language. The amendment will be presented a Council on 9-16-15.

Section 14B.130.020 M is a duplicate definition and needs to be deleted, which reorders 14B.130.020 M – Q.

In Section 14B.130.080 C.2., the following changes are needed;

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

IMPACT STATEMENT

Legislation title: * Adopt regulations for marijuana license procedures and requirements (Ordinance; add Chapter 14B.130)

Contact name: Theresa Marchetti

Contact phone: 503-823-3032

Presenter name: Theresa Marchetti and Víctor Salinas

Purpose of proposed legislation and background information:

The 2015 Oregon Legislature enacted HB 3400 to amend Measure 91. Measure 91 legalized the consumption of marijuana by adults 21 and over and the legal production and sale of Marijuana and marijuana items. HB 3400 also granted local government limited time place and manner authority over operational aspects of the businesses that produce, process, transfer, or sell marijuana. Portland City Council voted to develop the Marijuana Policy Program in November of 2014 to advocate at the state legislature and implement a local regulatory program that would support the legitimization of the marijuana industry while protecting the welfare of the Portland community.

The proposed code introduced by this ordinance establishes a local regulatory license for marijuana businesses and medical dispensaries that wish to locate within the City of Portland, granting the City jurisdiction to address concerns and to provide guidance to businesses about the expectations of the City.

Financial and budgetary impacts:

The proposed legislation is accompanied by a proposed fee schedule (Exhibit B) that will cover the cost of administering the program.

In order to implement and enforce the legislation being proposed, the Marijuana Policy Program will need to staff five additional FTE, which include one Office Support Specialist II and four Code Specialist II positions.

The total cost of the program, which includes the previously funded Livability Programs Manager, Marijuana Program Specialist, and Marijuana Assistant Program Specialist, is projected to require \$889,464.00 in ongoing funding and \$169,000.00 in one-time funding. These program costs will be fully covered by the fees collected. ONI will be asking for position authority in the Fall Budget Monitoring Process (BMP).

Community impacts and community involvement:

The proposed program is a citywide program, affecting all neighborhoods, residents, and business owners of Portland. The intention is to provide education, clear guidelines, and allow for communication between the community and the marijuana industry. Additionally, it will give Portland communities a clear avenue for problem solving if negative impacts are realized.

The current proposed legislation has been informed by an extensive public involvement process, with clear goals related to transparency and inclusiveness. This process included a Community Workgroup which met regularly over the course of 11 weeks, a social media campaign, and a three-part town hall series to gather input at each step of the development of the legislation being proposed. Please see Exhibit C for a complete summary of the community involvement process.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

9-16-15 Version
Superseded 9-30-15
FINAL

Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements

14B.130.010 Purpose

Blue = State
REQUIREMENTS

14B.130.020 Definitions

14B.130.030 License Required

14B.130.040 Minimum Standards

14B.130.050 Application Procedure

14B.130.060 Notice

14B.130.070 Issuance and Renewal of the License

14B.130.080 Requirements

14B.130.090 Inspection of Property and Records

14B.130.100 Penalties

14B.130.110 Revocation or Suspension of License

14B.130.120 Appeals to the Code Hearings Officer

Chapter 14B.130 Marijuana Regulatory License Procedure and Requirements

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

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

14B.130.030 License Required

- 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 Neighborhood Involvement.
- 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

- A. A marijuana regulatory license may only be issued for specific fixed locations which shall be considered the licensed premises. The licensed premises must be within a building or structure subject to permit review and approval under the Oregon Structural Specialty Code, fire code and related building codes as promulgated by the Oregon Department of Consumer and Business Services. Licensee must obtain the appropriate permits and remain in compliance with fire and building codes.
- 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. 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. No medical dispensary or marijuana retailer may operate or conduct business 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.
- E. No medical dispensary or marijuana business may be located in residential zones RF through RH or where otherwise not allowed per City Code.
- F. A person or business operating a medical dispensary or marijuana business must comply with all state and local regulations that apply.

14B.130.050 Application Procedure

- 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 Neighborhood Involvement, for any person 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 Neighborhood Involvement 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. A change of use permit as required by City code when a change in the designated use or a change in the occupancy occurs.
4. Documentation of having applied for or obtained an alarm permit for the premise's security system.
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. If the application is for a marijuana processor or marijuana producer, documentation of having applied for or obtained all necessary permits from the Portland Bureau of Fire and Rescue and Portland Bureau of Development Services.
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 Neighborhood Involvement.
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 Neighborhood Involvement of any changes in the information required in Subsections 14B.130.050.A.1.a-c within 10 business days of the change.
- B. Applications for renewal of marijuana regulatory licenses must demonstrate compliance with Subsections 14B.130.050.A.1-7 on a form provided by the Office of Neighborhood Involvement and pay an annual fee as stated in the fee schedule adopted by City Council.

14B.130.060 Notice

- A. The Director shall provide notice of an application before a final decision is made to the Police Bureau, Bureau of Fire and 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

- 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 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 Neighborhood Involvement.
- 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;
 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 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.
1. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.
 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 days of the date of denial in accordance with Section 14B.130.120.

14B.130.080 Requirements

- 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.
 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 offsite.
 - b. Licensee must retain camera surveillance data for a minimum of 30 days.
4. Except for marijuana producer or processor, sales, transfers and distribution of any marijuana or marijuana items by a Licensee shall occur only upon the licensed premises, and the Licensee shall not provide delivery of marijuana or marijuana items off site, except as expressly allowed under Oregon law regarding delivery off site to holders of Medical Marijuana Patient or Caregiver cards as established under ORS 475.314.
- 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 customers 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.
 2. Licensee must maintain hours of operation no earlier than 7a.m. and no later than 9p.m.
 3. Licensee must not make marijuana or marijuana items available for sale from a vendor cart, temporary structure, or satellite location.
 4. Licensee must install and maintain an air filtration system to ensure odor impacts upon neighboring properties are minimized.
- C. Any person with a processor marijuana regulatory license 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.
- D. Any person with a producer or 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.
2. Licensee must install and maintain an air filtration system to ensure odor impacts upon neighboring properties are minimized.

14B.130.090 Inspection of Property and Records

- A. Upon presentation of proper credentials, a Licensee shall allow any representative of the Portland Police Bureau or the Office of Neighborhood Involvement 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 Licensee or by court order, any inspection under this Section may occur only during the Licensee's 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 remove any person or obstacle and assist the Director or representative of the bureau inspecting the property in any way necessary to complete 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 working days of its issue and returned to the judge by whom it was issued within 10 working 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

- A. The Director may assess civil penalties in an amount up to \$5,000 for any violation of this Chapter.
- 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.
 2. Service of the notice will be accomplished by mailing the notice by certified mail, return receipt requested to the mailing address provided by the licensee.
 3. Mailing of the notice will be prima facie evidence of receipt of the notice.
 4. The civil penalty will be due 10 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

- 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 Neighborhood Involvement.
- 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.
 - 1. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
 - 2. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.
- C. Revocation will be effective and final 10 days after the date of notice unless the revocation is appealed in accordance with Section 14B.90.150.
- D. Suspension will be effective immediately upon the date of the notice, for the period of time set in the notice not to exceed 30 days.

14B.130.120 Appeals to the Code Hearings Officer

- A. Any determination issued pursuant to Sections 14B.130.070, 14B.130.100 or 14B.130.110 may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of Portland City Code. Requests for appeal hearings must be filed with the Office of Neighborhood Involvement within 10 business days of the determination.
- B. 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.