

IMPACT STATEMENT

Legislation title:

Amend regulations for marijuana license procedures and requirements (Ordinance; amend Code Subsections 14B.130.040.D and 14B.130.080.B)

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Purpose of proposed legislation and background information:

The proposed ordinance amends Chapter 14B.130 to address concerns raised at the September 30th, 2015 Council hearing that adopted Chapter 14B.130.

Financial and budgetary impacts:

None

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. This ordinance establishes a Marijuana Taskforce to oversee administration of the code.

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

1048

Distributed to Council
Fritz Amendment
10-14-15

Amend Subsection 14B.130.040.D 2.a as follows:

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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 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:

i. Registered, operating, and in good standing with the Oregon Health Authority since on or before January 1, 2015 July 1, 2015 or,

ii. Registered and in good standing with the Oregon Health Authority before September 30, 2015, if the Director finds that the applicant demonstrates that they incurred significant financial obligations prior to that date including entering a lease, hiring employees, and obtaining fixtures and equipment,

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;

July 1

- 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; and
 - 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.

Amend Subsection 14B.130.040.A as follows:

- A. 1. 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.

2. A marijuana regulatory license may only be issued by the Office of Neighborhood Involvement to persons demonstrating that they have a current, valid license from the State to operate either as a medical dispensary or as a marijuana business.

10/14/15
MOTION FAILED.

Saltzman amendment.

City Code Subsection 14B.130.040 Minimum Standards is amended by adding a new subsection H as follows:

H. The distance requirements in Subsections 14B.130.040.C and 14B.130.040.D.1 shall not apply within the boundaries of the Central City Plan District and Subdistricts, as defined by Map 510-1 set forth in City Code Chapter 33.510 Central City Plan District.

ONI Staff
10-14-2015

187391

City of Portland – Office of Neighborhood Involvement

Marijuana Regulatory License Application Process Time Line

<p><u>December 1st, 2015</u> The City will begin accepting applications for Medical Dispensaries that meet the criteria of Section 14B.130.040 D.2</p>	<ul style="list-style-type: none"> • Applications will only be taken in person at the Office of Neighborhood Involvement on a first come first serve basis. The City will be using a ticket numbering system, associated with a location. • To be assigned a number, an applicant must state the location that is proposing to be licensed by the City of Portland. • The City of Portland will only accept complete applications. <ol style="list-style-type: none"> 1.) Proof that the medical dispensary meets the criteria of Section 14B.130.040 D 2. 2.) All documents required in 14B.130.050 3.) Applicable fee
<p align="center">**If an application is not complete, the application will be rejected as incomplete, and the applicant will lose their position in line.</p>	
<p><u>December 16th, 2015</u> The City will begin accepting applications for all Marijuana Businesses.</p>	<ul style="list-style-type: none"> • Applications will only be taken in person at the Office of Neighborhood Involvement on a first come first serve basis. The City will be using a ticket numbering system, associated with a location. • To be assigned a number, an applicant must state the location that is proposing to be licensed by the City of Portland. • The City of Portland will only accept complete applications. <ol style="list-style-type: none"> 1.) All documents required in 14B.130.050 2.) Applicable fee
<p align="center">**If an application is not complete, the application will be rejected as incomplete, and the applicant will lose their position in line.</p>	

January 4 th , 2015	Oregon Liquor Control Commission will accept Marijuana Business License Applications. Will begin to request LUC's from City of Portland
January 29 th , 2015	Last Day applications under 14B.130.040 D.2 will be accepted by the City of Portland.

Date of Hearing	September 16th			
Policy presented for consideration and testimony / Amendments.	1000 ft rule between like businesses			
Policy Issue Raised by Council	Would increase number of locations that sell MJ - Mayor Hales wants to ensure Hayden Island effect, or the saturation of retailers does not occur			
Medical Industry Feedback	Medical MJ will want to convert to retail locations, and will have to compete with other applicants not currently in business for recreational license.	Industry anticipates based on speculation, that the two systems will be collapsed into one and then they would not be able to convert if there was a retail location within 1000 ft of theirs		Medical dispensaries should have 2 day lead time to decide if they want to convert to recreational store before any other applicant that is pursuing recreational sales
Recreational Industry Feedback				The recreational market deserves the same opportunity to legitimize through licensing in Portland as the medical industry. Two different systems.
Community	Avoiding saturation and the experience with alcohol is important	Balancing barriers to entry to the market with community protection is achieved by allowing new industry within 1000ft parameters	Giving preferential treatment to one group of businesses to enter a new market is not an equitable policy.	
Staff Information/ Recommendations	Maintain the difference between Medical and Recreational. They serve two distinct populations and there are no businesses that are officially recreational. Saturation is still addressed.	Important to establish expectations for new market and to avoid preferential treatment to businesses that sell in a regulated market. By this argument all 3000 bars could argue that they deserve to have a first consideration as well.	State recognizes two separate and distinct systems including product line. Risk losing ability to effectively partner with the state through LUCS process if we end up saying no to a recreational store because they are too close to medical but farther than 1000 ft from another recreational.	Giving preferential treatment to one group of businesses to enter a new market is not an equitable policy.
Council Direction	Amendment requested: include a cross buffer between all dispensaries and retail.			Options presented were 2 day advance or 1000 ft cross buffer. Council direction included the cross buffer, not the advance processing.
OUTCOME	Outcome: Amendment approved on September 23rd, 2015			

Date of Hearing	September 23rd, 2015		
Policy presented for consideration and testimony / Amendments.	1000 Ft between like businesses and 1000 ft cross buffer between retail and medical dispensaries		No Public Consumption on site
Policy Issue Raised by Council	If a recreational store is first in line, an existing medical dispensary may be told no.		Patients are allowed under OMMA to consume in dispensaries, in private.
Medical Industry Feedback	The medical dispensaries were here first and should be given first consideration because they are currently selling marijuana, employ people, and have taken the initial risk.	Medical dispensaries serve medical patients, and the patient population should be protected. Relationships have been built between patient and provider(dispensary) and should be respected by City Council	
Recreational Industry Feedback	Medical dispensaries are currently given first consideration by virtue of the fact that they have already secured space, product lines, and infrastructure. The recreational market stands to be closed out	Buffers should not cross over between recreational and medical. HB3400 allows no more than 1000ft and the crossbuffer presents the possibility of overstepping the allowance in HB3400.	
Community			Patients are allowed under OMMA to consume in dispensaries, in private.
Staff Information/ Recommendations	Giving preferential treatment to one group of businesses to enter a new market is not an equitable policy.	In anticipation of differential treatment and tax free recreational sales starting on October 1st, many people have secured leases and OHA registrations from the state without operating or serving patients.	Intention was not to restrict patient access to medicine consumed in private, language can be more explicitly drafted.

Council Direction	Amendment requested: Establish a criteria that allows long standing medical dispensaries from being unintentionally closed out of Portland and potentially having to close their doors.	Allow consumption by employee patients at Medical Dispensaries.
OUTCOME	<i>Outcome: Amendment adopted on September 30th</i>	

Date of Hearing	September 30th			
Policy presented for consideration and testimony / Amendments.	Establishes Grandfather Clause for Medical Dispensaries open and operating prior to January 1st 2015 in good standing with OHA. Lifts the requirement for them to be 1000ft from another retail establishment.			Hours of Operation 7pm to 9pm
Policy Issue Raised by Council	Potentially dismiss local regulations.			
Medical Industry Feedback	Confusion over the crossbuffer. The language provides no assurances to the medical dispensaries in Portland that they will be allowed to convert to recreational without first surrendering their medical dispensary license which means someone else could submit an application for recreational in "limbo" period between surrender and conversion.	January 1st 2015 is an arbitrary date. Date should be removed completely. Medical Dispensaries with valid registration from OHA should be given first opportunity to apply regardless of operation status or when they received the license. If there had been an opportunity for a City license prior to this enactment, they would have applied and received it.	Suggest one license for Medical Dispensaries and Marijuana Retailers- treating them all as the same industry	
Recreational Industry Feedback	Establishes preferential treatment for medical dispensaries in addition to cross buffer which could further close out new industry members into the recreational market.	Preferential treatment of all medical dispensaries in securing a location for eventual recreational license potentially closes out new industry.		Hours of operation should reflect bar and taverns hours until 2:30am. Most recent draft of rules from OLCC state 8am to 10pm.
Community				
Staff Information/ Recommendations	Preferential treatment is to protect patients of the OMMA, not to protect one business's interests over another. Process concern over limbo period between conversion can be addressed.	Avoid preferential treatment to businesses that sell in a regulated market. By this argument all 3000 holders of liquor licenses could argue that they deserve to have a first consideration as well. Prior to 2015 Legislative Session, market was unregulated. January 1st used as date by state Legislative body to differentiate between regulated market and pre-existing market with limited regulation with regards to cultivation. Relevant here, and ensures that protection exists for established medical dispensaries.	These businesses serve different populations (except for limited recreational allowances from Dispensaries starting on Oct 1) and are regulated by different state agencies in different ways. The state is still making decisions, but City of Portland should not legitimize existing medical dispensaries as the recreational market in Portland. Coordination with state would be compromised.	Hours of operation limitation is a common protective strategy to limit youth access, spontaneous purchases that increase DUII and alleviate livability impacts on neighborhoods late at night.
Council Direction	Adopt regulatory framework and requirements. Reconvene industry group and attorneys and ensure that confusion is addressed, return with amendments in less than 3 weeks.	Discuss with industry lawyers and reach consensus. Return in 3 weeks		
OUTCOME	<i>Outcome: Adopted Ordinance Directed Staff to return with 3 weeks after convening industry attorney's and making sure confusion is clarified.</i>			