

At the March 8, 2017 Council workshop a majority of Council members voiced support for allowing several types of recreational marijuana businesses to operate in the City of South Portland. The task of crafting regulations was broken into two components, zoning and licensing. During the past few months the Council has been focused primarily on zoning. This has been a necessary first step to determine a variety of land use policies, including where those business will be allowed to locate in the City. Following the July 10, 2017 workshop, staff notes were compiled and it was determined there remain some key questions related to zoning policy. A list of those key questions follows:

Key Questions (Zoning)

- 1. Regarding Commercial Cultivation allowed as a Home Occupation, what, if any, operating restrictions should apply?**
 - 4 Councilors expressed that, if allowed, commercial cultivation in residential properties should include reasonable restrictions, but those were undefined
 - 2 Councilors voiced support for no operating restrictions
 - 1 Councilor voiced general opposition to Commercial Cultivation as a Home Occupation
 - 1 Councilor articulated several areas to consider, including pesticide restrictions, safety review of electricity and water systems, structural integrity, odor control, fire plan, and security plan

- 2. Should Commercial Cultivation in a residential structure be required to comply with the same Fire and Building Codes as would be required for larger facilities?**
 - 3 Councilors voiced support for requiring that home-based commercial cultivation businesses comply with pertinent Fire and Building Codes, including sprinklers if so required
 - 2 Councilors voiced opposition to those code requirements and felt an exception should be made for small-scale home-based grow operations
 - 1 Councilor voiced support for reasonable custom fire and buildings codes relative to the size of the grow operation, but those were undefined

- 3. Should Recreational Marijuana Business activities be allowed by right (no Planning Board review) in comparable non-residential zones, and by exception (with Planning Board review) in mixed-use zones where residential exists?**
- 3 Councilors voiced support for this approach
 - 2 Councilors proposed that only retail marijuana stores should require Planning Board review (other business types require only staff-level review)
 - 1 Councilor proposed that none of the business types should go before Planning Board, but there should be a reasonable buffer from all residential

- 4. Should hours of operation be regulated for any Recreational Marijuana business type? If yes, should hours be regulated for all marijuana businesses or only retail stores? What should the hours be limited to?**
- 5 Councilors voiced support for regulating marijuana businesses in a similar manner to retail alcohol sales and/or bars that serve alcohol

Note: As a comparison, alcohol sales are generally permitted from 5:00 a.m. until 1:00 a.m. the following morning, except that alcohol cannot be sold before 9:00 a.m. on Sundays

- 5. Should Commercial Cultivation businesses be limited to 10,000 sq. ft. of grow area?**
- 3 Councilors voiced opposition to any grow area cap
 - 2 Councilors voiced support for a grow area cap
- 6. The draft ordinance includes a provision that Retail Marijuana Stores cannot locate within 300 feet from one another. Separation of uses is often used to avoid clustering of certain businesses in a single area, and could also be used to limit the overall number of retail stores in the City if the separation distance is increased. Should this separation provision remain? If yes, should the distance be left as-is or changed?**
- 2 Councilors voiced opposition to any separation of businesses
 - 1 Councilor voiced support for leaving the separation at 300 feet
 - 1 Councilor voiced support for increasing the separation to 500 feet
 - 1 Councilor voiced support for increasing the separation to 1,000 feet
- 7. At the July 10 Workshop several Councilors expressed support for addressing Controlled Environment Agriculture (CEA). Should staff begin work on draft zoning to allow CEA for various types of indoor agriculture, including but not limited to, recreational and medical marijuana, concurrently with the already-drafted Recreational Marijuana zoning?**

Staff is requesting that Council suspend its workshop rules and vote on each of the above matters so we have clarity as to where the majority of Council stands on these issues so that we can create a final draft of the zoning ordinance.

Once we are able to dispose of the remaining questions on zoning, staff will explore with Council the issue of licensing. Corporation Counsel has spent time reviewing licensing ordinances from other states where recreational marijuana is currently allowed and City staff have also been reviewing a variety of issues that will have to be considered. The framework of a draft ordinance has been assembled but it will not be ready for the Council to review until several key questions are answered and guidance is provided to staff. A list of those key questions follows:

Key Questions (Licensing)

1. Initial guidance from City Council on March 8, 2017 was to allow four of the five recreational marijuana business types, with the exception being Marijuana Social Clubs. Staff would like to confirm this guidance is unchanged. The five business types allowed by Q1 are listed below:

- a. Marijuana Cultivation Facility
- b. Marijuana Products Manufacturing Facility
- c. Marijuana Store
- d. Marijuana Testing Facility
- e. Marijuana Social Club

2. Licensing – Does the City Council want to require that the City license all recreational marijuana business types allowed in the City? If no, which marijuana business types should be licensed, or should none of them be licensed?

Note: As a comparison, establishments with on-site consumption of alcohol and retail sale of alcohol are both subject to local licensing. However, breweries and laboratories are not subject to licensing.

3. Classes of License – If the City intends to license more than one type of marijuana business, should there be classes of license? For example, Class I may include cultivation, manufacturing, and testing, and Class II may include retail stores and social clubs. Having multiple classes of licensure would allow licensing requirements to vary between businesses, including licensing fees, inspections, authority to grant a license, etc. (see follow-on questions below).

4. Licensing Authority – Should the license application go to City Council (*as is done with on-site alcohol consumption*), or should it go to City Clerk (*as is done with retail*

sales of alcohol)? Should all licenses initially go to City Council and then renewals to City Clerk as long as there are no complaints or violations? If the license application goes to City Council, should a public hearing be required? If notice is to be posted, should it be general notice, or notice to abutters as well? Should the City Clerk have the ability to refer the license application to City Council at her/his discretion?

5. Licensing Fees – The City Council initially communicated to staff on March 8, 2017 that the license fee for all marijuana establishments should be comparable to the highest level fee for an alcohol establishment. The Class A Lounge license fee is currently \$2,100. Is the Council agreeable to that level of fee (approximately) so long as it adequately offsets the cost of the City administering the licensing program? For cultivation businesses, should the fee be set proportional to cultivation area (i.e. \$X per sq. ft.).

Note: As a comparison, a license for retail sale of alcohol is \$300 on the low end, and from there the license fee escalates to maximum of \$2,100 for Class A Lounge.

6. Background Checks – Should background checks be required for all recreational marijuana business licenses? If no, should they be required for any marijuana business types? If a background check is required, who should be subject to the background check? i.e. just the owners? owners and employees?

Note: As a comparison, background checks are required for establishments with on-site consumption of alcohol, but not for retail stores selling alcohol.

7. Term of Licenses – What should be the term of licenses? i.e. annual renewal?

Note: Establishments with alcohol licenses are required to renew licenses annually.

8. Operating Requirements – Does the City Council want to impose any operating requirements or restrictions on any type of marijuana business?

- a. Warning Signs (public entrance clearly marked as retail marijuana business?)
- b. Prohibited Activities?
- c. Emissions (*Standards?*)
- d. Hours of Operation (same as for alcohol?)
- e. Fixed and permanent locations only; no pop-ups?
- f. Products (i.e. no candy-like products or those attractive to children?)
- g. Liquor and cigarettes prohibited in retail?
- h. Security requirements?

9. License Transfers/Changes – Should the licensing ordinance describe the process to Transfer Ownership and/or Change of Location?

10. Inspections – Should the licensing program include periodic inspections of the business for safety and compliance with the ordinance? If yes, how frequent? i.e. initial inspection and then upon license renewal? Allow spot inspections?

11. Additional Questions – As the licensing ordinance is drafted based on the guidance received from Council on the key questions above, it is anticipated that additional policy questions will surface. Those questions, if any, will be noted when the draft ordinance is presented for Council review. At this time, are there any other license-related policies the Council would like to discuss with staff for inclusion in the draft ordinance?

The City Clerk will join us for this discussion, as will a representative from the Police Department, as Councilor Fox has asked for their opinion on the potential “dangers of having a home grown marijuana business because it may be a target for theft and/or robbery.” Finally, attached please find a document updating you on the work of the State’s Marijuana Legalization Implementation Committee.



City Manager

**Requirements for Marijuana Legalization Implementation
By Topic Area, August 4, 2017**

General Licensing Criteria

Consensus Pg 1-2
Further discussion needed Pg 2

Retail Marijuana Cultivation Facilities

Consensus Pg 3-6
Additional discussion needed Pg 6

Retail Marijuana Health and Safety, Labeling and Packaging

Consensus Pg 7-9
Additional discussion needed Pg 9

Retail Marijuana Production Facilities

Consensus Pg 11-12

Retail Marijuana Stores

Consensus Pg 13-14
Additional discussion needed Pg 15

Retail Marijuana Social Clubs

Consensus Pg 17

Municipal Control of Retail Marijuana Establishments and Social Clubs

Consensus Pg 19

Updated General Licensing Criteria for Retail Marijuana Licensees, July 27

Prepared by OPLA at the Direction of the MLI Chairs

(Outline with border indicates decision of chairs for review by committee August 4.)

CONSENSUS REACHED

Qualifications for licensure (all applicants for licensure must meet each of the following criteria)

1. Applicant is 21 years of age or older;
2. Applicant has been a resident of Maine for at least 6 months prior to the application date (does not apply to testing lab applicant);
3. If applicant is a business entity (corporation, LLC, partnership, cooperative, sole proprietorship):
 - Applicant is organized/incorporated/established under ME law;
 - Majority of shares or ownership interests, all members of board and all principal officers must have been a resident of Maine for at least 6 months prior to the application date (does not apply to testing lab applicant);
 - All shares or ownership interests, all members of board and all principal officers must individually meet all other general licensing requirements;
4. Applicant is not an officer or employee of state licensing authority or other entity with regulatory authority under retail marijuana laws;
5. Applicant is not a law enforcement officer (as defined in 17-A MRSA §2(17)), a corrections officer (as defined in 25 MRSA §2801-A(2)) or any other law enforcement officer subject to the certification requirements of Title 25, chapter 341;
6. Applicant has not had a retail marijuana license revoked in Maine or in another jurisdiction;
7. Applicant has not had a medical marijuana certification/license revoked in Maine or in another jurisdiction;
8. Applicant must complete criminal background check; applicant may not have a "disqualifying drug offense":
 - "Disqualifying drug offense" (taken from Medical Use of Marijuana Act) means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:
 - An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or
 - An offense that consisted of conduct that would have been permitted under this chapter.
9. Applicant must disclose the names and addresses of all persons and business entities having a direct or indirect financial interest in the license and for each person or entity, describe the extent of the financial interest;

- 10. Applicant has completed application form truthfully (no intentional false statements of fact) and complied with all information or other requests of licensing authority.
- 11. Prohibit all licensees from having employees under age 21.

Additional considerations – an applicant for a license shall provide and the licensing authority may consider in determining whether to grant the license the following information:

- 1. Whether applicant has been convicted of any crime involving dishonesty, deception, misappropriation or fraud. Licensing authority must consider any information submitted by applicant concerning such crimes, including evidence of rehabilitation, character references and educational achievements.
- 2. Applicant’s history over 2 years of paying income and other taxes owed to ME, other states and IRS and information on any outstanding tax liens on the applicant within the last 5 years.
- 3. If applicant has operated marijuana business in other states (retail and medical), whether any violations or other related penalties in those states.

Marijuana compliance and enforcement

1. Add DAFS responsibility to ensure that licensees do not sell to or allow access for anyone below age 21 or sell to anyone visibly intoxicated.

FURTHER DISCUSSION NEEDED:

- 1. *Establish a compliance and enforcement division within DAFS, to ensure compliance with the law, supported by application and license fees. Through adoption of major substantive rules, assign responsibility for licensing compliance and enforcement to DAFS (in the manner that liquor enforcement was done in prior years), delegation to other state agencies as appropriate. Require DAFS to establish compliance and enforcement programs that work with licensees, municipalities and law enforcement to provide regulatory oversight, complaint resolution, compliance investigations, licensing consequences, corrective action and prosecutions and progressive consequences and penalties.*
- 2. *Need to set maximum application and license fees for adult use marijuana establishments other than cultivation facilities.*

Fees	Colorado	Oregon	Washington	Maine MLA (application fee is \$10 to \$250)
Processor	\$4000	\$4750	\$1480	\$100 to \$1000
Retail store	\$4500	\$4750	\$1480	\$250 to \$2500
Testing facility	\$2000	\$4750	\$250	\$500
Transporter	\$4900		\$250	
Social club				\$250 to \$2500

Updated Requirements for Licensed Retail Marijuana Cultivation Facilities, July 27

Prepared by OPLA at the direction of the Chairs for MLI Committee

(Outline with border indicates decision of the chairs for review by committee August 4.)

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CONSENSUS REACHED

1. **Testing requirements**, see LD 1641.

2. Location

1. License prohibited for a location the same as or within 1000 feet of a location for which a license was denied within 2 prior years due to the nature or concern about the location.
2. License prohibited until applicant shows ownership, lease, rental or other agreement for possession of the premises.
3. Indoor and outdoor facilities must meet security requirements, be shielded from public view.
4. Assign to rulemaking
5. Licensed cultivation facility may operate a licensed retail marijuana store only if separately licensed, each facility subject to regulation applicable to its type facility. (Issue decided May 26 in discussion of municipal control.)

3. Application requirements

1. Applicant meets general licensing requirements
2. Applicant must designate on operating plan the size category, plans for wastewater and waste disposal, plans for compliance with applicable Building Code, federal and state environmental requirements, and exact plant canopy or number of plants (if so decided by MLI Committee).
3. Applicant must file statement regarding electrical and water requirements and plans for meeting those needs
4. Assign to rulemaking
5. Common ownership of any one type of retail marijuana license limited to 3 licenses.

4. Types of licenses, numbers

1. Municipal approval, through municipal license or approval process, needed in addition to state license prior to operation.
2. Assign to rulemaking

5. Business restrictions

1. Facility may sell and distribute only to licensed retail marijuana licensees.
2. Facility may co-locate with licensed retail marijuana store if meets all state and municipal requirements.
3. Facility may provide samples to retail marijuana testing facility for testing and research.
4. Facility that provides sample for testing must maintain records of sample, testing facility and results.
5. Facility must keep complete set of records, open for inspection and examination by the state licensing authority during business hours.

6. Facility may be required to furnish additional information and submit to an audit.
7. Facility must be open for inspection and investigation during business hours and at other times of apparent activity, including any locked areas.
8. Prohibit consumption of retail marijuana and retail marijuana products on premises of cultivation facility.
9. Facility must meet security requirements set by statute and rule.
10. Assign to rulemaking

6. Cultivation caps, licensing

1. Repeal statewide caps on cultivation of marijuana. Prohibit DAFS from imposing a limit statewide cap on marijuana cultivation.

2. Prohibit DAFS from imposing a limit on the number of cultivation licenses.

3. Agreed to license cultivation facilities in 4 tiers, setting nonrefundable application fee and license fee, payable to the State. Application to be accompanied by a cultivation plan. Allow municipality to establish its own licensing criteria and process, land use approval process, application fee and license fee. Plant canopy to be based on MLA definition, applicable to all cultivation areas and all plants. License fees to be set by major substantive rule.

- To be specialty retail cultivator: up to 30 mature plants or 500 sqft, as shown in cultivation plan. Application fee \$100. Maximum license fee if licensed by plant count \$17 per plant for indoor or indoor/outdoor cultivation and \$9 per plant for outdoor cultivation. Maximum license fee if licensed by sqft, \$500 for indoor or indoor/outdoor cultivation and \$250 if licensed for outdoor cultivation.
- At Tier 1 to be small retail cultivator: 501 to 3000 sqft plant canopy. Application fee \$500. Maximum license fee \$3000 for indoor or indoor/outdoor cultivation and \$1500 if licensed for outdoor cultivation.
- At Tier 2 to be medium retail cultivator: 3001 to 10,000 sqft plant canopy. Maximum license fee \$10,000 for indoor or indoor/outdoor cultivation and \$5000 if licensed for outdoor cultivation.
- At tier 3 to be large retail cultivator: 10,001 to 30,000 sqft plant canopy. Maximum license fee \$30,000 for indoor or indoor/outdoor cultivation and \$15,000 if licensed for outdoor cultivation.
- Agreed to require all plants above 6 inches tall or 6 inches wide to be individually tagged and tracked under the State-implemented tracking system.
- Increases in license from one tier to a higher tier require demonstration of history over 2 years of selling 85% of marijuana produced and capability of selling 85% of marijuana produced at the higher tier.
- Revenues from licensing fees are limited to the amount of funding required for licensing and regulatory purposes.
- Mature plant is flowering or more than 12 inches tall or more than 12 inches wide. Immature plant is nonflowering, smaller than a mature plant, larger than a seedling. Seedling is a nonflowering plant, less than 6 inches tall or less than 6 inches wide.

7. Tracking

1. Facility must track marijuana it cultivates from immature plant (6 inches tall or 6 inches wide or flowering) to sale to other licensee, who tracks through to retail purchase or disposal or other disposition.
2. Through adoption of major substantive rules, comprehensive marijuana tracking system must be operated by the State, funded by the State with financial support from licensees who are required to purchase RFID tags for each immature plant (6 inches tall or 6 inches wide or flowering), requiring participation by each licensee, providing tracking through point of sale to consumer or disposal or disposition of the marijuana and providing communication and connections with other data systems, including but not limited to taxation.

8. Transportation

1. Retail marijuana and retail marijuana products may be transported among licensed retail marijuana establishments, with required recordkeeping and documentation.

9. Personal use, medical use and home cultivation of marijuana

1. A person may grow 6 mature plants for personal or medical use at their place of residence or on other land/property they own.
2. No more than 12 mature plants in total may be grown for personal or medical use on any one parcel of land.
3. A person may grow their 6 mature plants for personal or medical use on another person's land/property with the written permission of that landowner, so long as growing on that person's land does not exceed the 12 mature plant per parcel of land limit.
4. Home cultivation must:
 - o Be out of sight of public way; and
 - o Be secured from unauthorized access.
5. All mature and immature plants need to be tagged and labeled with the individual grower's name, address and driver's license number. Seedlings do not need to be tagged.
6. If an individual is growing their plants on another person's land/property, each plant must be tagged and labeled with the individual grower's name, address, driver's license number and the name of the landowner on whose land/property the plants are being grown.
7. If more than 2 people reside at the same parcel of land and all would like to grow 6 mature plants for personal or medical use, the parcel is still subject to the 12 mature plant limitation. This means that:

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- o 2 people may each grow their 6 mature plants (12 total mature plants) and any other persons residing at the property must grow their plants on other land/property; or
- o Each person may grow an agreed upon number of plants so as to not exceed the 12 mature plant per parcel limitation and may grow any additional plants on other land/property (up to their 6 mature plant limitation). For example, 4 residents may choose to each grow 3 mature plants at the parcel of land where they reside (12 total mature plants) and then each resident may still find other land/property on which to grow the remaining 3 mature plants they are entitled to grow.

8. A person may cultivate and possess marijuana for medical use or personal use or both uses simultaneously, but is strictly limited in plant count and amount of marijuana to the limits under the MLA and cultivation is limited as set forth above.

9. A mature plant is flowering, or more than 12 inches tall or more than 12 inches wide. An immature plant is a plant that is nonflowering and smaller than a mature plant and larger than a seedling. A seedling is nonflowering and less than 6 inches tall and less than 6 inches wide.

10. Prohibit home extraction of marijuana concentrates by butane and other extraction process.

ADDITIONAL DISCUSSION NEEDED:

1. *Outdoor grow sites must be physically separated by 20 feet and may not share a common wall or fence.*
2. *The MLA contains a conflict that needs to be resolved. Should the cultivation facility law be amended to allow sale of seedlings and immature plants to a person for personal use? Section 2448, sub-§4, ¶A, sub-¶(1) restricts a cultivation facility to sales only to licensees. Section 2452, sub-§1, ¶E allows a person, for personal use, to purchase seedlings and immature plants from a cultivation facility.*

Updated Requirements for Retail Marijuana Health and Safety, July 27

Prepared by OPLA at the direction of the MLI Chairs

(Outline with border indicates decision of chairs for review by committee August 4.)

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CONSENSUS

1. Testing requirements, see LD 1641.

2. Packaging and labeling for marijuana and marijuana products

- Require labeling in compliance with law and rules
- Require label to show:
 - License number of cultivation facility, production facility and retail store
 - Identity statement of the marijuana or marijuana product and universal symbol
 - Batch or lot number
 - Net weight statement
 - THC and CBD and other cannabinoid and other chemical potency, highlighted?
 - Instructions on usage
 - Warning labels
 - Solvents used in marijuana extraction process
 - Amount of THC per serving
 - Number of servings per packet
 - List of ingredients and possible allergens
 - Recommended use date or expiration date for edible products
 - Nutritional fact panel for edible products
 - Universal symbol for marijuana (triangle with THC and exclamation point)
- Allow list of ingredients and compatibility with dietary practices on an edible product
- Prohibit labeling or packaging in a manner that would cause a reasonable consumer confusion about trademark
- Prohibit packaging or labeling in a manner designed to appeal to children
- Prohibit labeling or packaging in a manner that violates federal trademark law or regulation
- Require child-resistant, tamper-evident, re-sealable packaging for marijuana/marijuana products
 - If marijuana/product is not prepackaged in child-resistant, tamper-evident, re-sealable packaging, retail store must place in opaque, child-resistant, tamper-evident, re-sealable “exit packaging” at point of sale.
 - If marijuana/product is prepackaged in child-resistant, tamper-evident, re-sealable packaging, retail store must place in opaque “exit packaging” at point of sale.
- Prohibit obscuring identifying information on label or use of false or deceptive label
- Allow pre-approval of labeling
- Allow pre-approval of packaging
- Assign labeling and packaging to rulemaking
- Requirements for sale of multi-serving liquids, with integral measurement component and child resistant cap
- Limit total amount active THC in single serving of edible marijuana product to 10 milligrams; limit total amount active THC in single package of edible marijuana product to 100 milligrams

3. Ingredients, nature of the marijuana or marijuana product

- For edible marijuana products:
 - Prohibit including harmful additives, particularly addictive or toxic or appeal to children or mislead consumers
 - Prohibit additives designed to appeal to children
 - Prohibit adding marijuana to trademarked food products
 - Allow use of trademarked food product in an edible marijuana product
 - Prohibit use of the distinct shape of a human, animal or fruit
 - Allow geometric shapes
 - Allow shape of marijuana leaf
 - Require label with universal symbol for marijuana (triangle with THC and exclamation point)
- Require marijuana and marijuana products to meet minimum standards
- Assign to rulemaking

4. Manner of preparation

- Require use of licensed premises that meet sanitary standards adopted by rule and that are licensed as kitchens by applicable licensing agency
- Assign to rulemaking

5. Manner of sale by retail store (see retail stores requirements sheet)

- Prohibit sale of marijuana or marijuana product to a person who is visibly intoxicated.

6. Restrictions on display and sale by retail store (see retail stores requirements sheet)

7. Advertising, marketing, signage

- Prohibit mass-market campaigns that have a high likelihood of reaching persons under 21
- Authorize regulatory authority to adopt by rule any of following prohibitions on advertising/marketing/signage
 - Claims on health or physical benefits
 - Unsolicited advertising on the Internet
 - Opt-in marketing unless it provides an easy and permanent opt-out
 - Ads directed toward location-based devices unless the ad is an app installed by a person 21 or older and there is a permanent and easy opt-out
 - Signs that are inconsistent with local laws and regulations
 - Misleading, deceptive or false ads
 - Advertising designed to appeal to persons under age 21
 - Banner ads on mass-market websites
- No limitation on access in sale or distribution of magazines focused primarily on marijuana/marijuana businesses (DELETE FROM MLA).
- Municipal limitations on size and content of signage authorized

- Assign to rulemaking

8. Refrigeration, sanitary requirements

- Require refrigeration if required to prevent spoilage during storage and transporting
- Require conformity with standards of sanitation adopted by rule, differing by type of marijuana establishment and marijuana product
- Assign to rulemaking

9. Storage, warehousing, transportation

- Require conformity with standards for storage, warehousing and transportation adopted by rule, differing by type of marijuana establishment and marijuana product
- Assign to rulemaking

ADDITIONAL DISCUSSION NEEDED

1. *Prohibit marijuana signage/advertising within 500 feet of school.*
2. *Require and provide funding for reporting and collect data to inform future decisions.*
3. *Fund studies and research at universities.*
4. *Provide public health, public awareness and youth prevention initiatives.*
5. *Require and provide funding for training for law enforcement agencies and officers.*

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Update requirements for Retail Marijuana Production Facilities, July 27

Prepared by OPLA at the direction of the Chairs for MLI Committee

(Outline with border indicates decision of chairs for review by committee August 4.)



1. Application requirements

- Applicant must meet general application requirements.
- Applicant must state location of production facility for municipal approval but not for state licensing.
- Applicant must show ownership, lease, rental or other agreement for possession of the premises for municipal approval but not for state licensing.
- Applicant may not be licensed as retail marijuana testing facility, may include a lab for its own testing purposes, but that lab does not fulfill requirement for independent 3rd party testing.
- Premises must meet sanitary standards for retail marijuana product preparation.

2. Business operations

- May cultivate its own marijuana if licensed to cultivate or may purchase from a licensed marijuana cultivator.
- Must track all marijuana from transfer from its own cultivation facility or from delivery from another licensed cultivation facility to the point of transfer to a licensed store, social club or testing facility, which must maintain the tracking system.
- Must keep records of what was provided to a licensed testing facility, the identity of the testing facility and the results of the testing.
- May transport marijuana and marijuana products to another licensee and receive from another licensee.
- May sell to licensed retail marijuana stores and licensed retail marijuana production facilities.
- May provide sample of licensee's products to licensed testing facility for testing and research purposes and to another licensee for the purposes of marketing or sampling for business.
- May not sell to a consumer.
- Must prohibit consumption of marijuana and marijuana products on site.

4. Product preparation

- Must meet requirements adopted by DACF and must be licensed as commercial kitchen by the appropriate state agency.
- Must meet health and safety, packaging and labeling requirements applicable to a production facility, as set forth in rule.
- Must provide refrigeration for products during storage and transportation as required to prevent spoilage.
- May list ingredients and compatibility with dietary practices on an edible retail marijuana product.

- May not add marijuana to a trademarked food product, except may use a trademarked food product as a component or part of a recipe if do not advertise that the final product contains the trademarked food product.
 - May not label or package a product in a manner that causes a consumer confusion as to whether the product is a trademarked product.
 - May not label or package in a way that violates federal trademark law.
 - May not include harmful additives, including those that are toxic, designed to make the product more addictive, designed to appeal to children or mislead consumers.
- | |
|---|
| <ul style="list-style-type: none">• Must ensure that cannabinoid content in an edible product is homogeneous. |
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5. Compliance, inspection

- Must keep complete set of records, open for inspection and examination by the state licensing authority and municipality during business hours.
- May be required to furnish additional information and submit to an audit.
- Must be open for inspection and investigation during business hours and at other times of apparent activity, including any locked areas.
- Licensee may produce water-based and food-based marijuana concentrates.
- Licensee may use the following solvents in producing concentrates through extraction: butane, propane, CO₂, ethanol, isopropanol, acetone and heptane. Licensee may petition state licensing authority for permission to use other solvents not listed.
- If using solvent-based extraction process, must have certification by an industrial hygienist or professional engineer regarding storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems.

6. Other

- May allow private consumption of medical marijuana by employee, except employee may not be visibly intoxicated while on duty.
- May allow sampling of marijuana products by employee for purposes of product quality control or product development.
- May allow samples of marijuana products to be offered to retail marijuana store or designee, except that such samples may not be consumed on licensed premises.
- Additional requirements, restrictions and criteria for sampling to be provided by rule.
- Must comply with transfer of ownership requirements.
- Must operate in compliance with rules adopted by state licensing authority.
- DELETE FROM MLA – requirement that Products must be prepared on licensed premises used exclusively for the manufacture and preparation of retail marijuana products and prepared using equipment that is used exclusively for the manufacture and preparation of retail marijuana and retail marijuana products.

Updated requirements for Licensed Retail Marijuana Stores, July 27

Prepared by OPLA at the direction of the MLI Chairs

(Outline with border indicates decision of chairs for review by committee August 4.)

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CONSENSUS

1. Testing, see LD 1641.

2. Application requirements

- Applicant must meet general application requirements.
- Municipal application must state location of store.
- State licensing authority may not limit number of licensed stores.
- Municipality may limit number of stores.
- Municipal license or approval prohibited for a location the same as or within 1000 feet of a location for which a license was denied within 2 prior years due to the nature or concern about the location.
- Municipal license or approval prohibited until applicant shows ownership, lease, rental or other agreement for possession of the premises.

3. Business operations

- Officers, employees, managers and support staff must all undergo fingerprint-based criminal history record check.
- Sales methods
 - Vending machines prohibited
 - Drive-thru sales, delivery sales, Internet-based sales allowed so long as proof of age verified at time of purchase and upon delivery; municipality may restrict or prohibit.
- Sale of non-marijuana products
 - Prohibition on sale of alcohol and tobacco-containing products;
 - Allow sale of consumable non-marijuana products such as soda, candy, baked goods and other food;
 - Allow sale of non-consumable, non-marijuana products such as apparel and products relating to marijuana use (rolling papers, etc.).
- Must track all marijuana and marijuana products from acquisition from cultivation facility of products manufacturing facility to point of sale.
- Law enforcement may investigate unlawful activity and during the investigation run a criminal history record check of the licensee and an employee.
- Licensee may transport marijuana and marijuana products to another licensee and receive from another licensee.
- May deliver to consumer pursuant to a bona fide order received at the licensed premises prior to delivery or order received at the store over the Internet or by other means provided that the identity and qualifying age of the person placing the order must be verified and delivery may only be made to that person upon verification of identity and qualifying age.
- Facility must keep complete set of records, open for inspection and examination by the state licensing authority during business hours.
- Facility may be required to furnish additional information and submit to an audit.

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- Facility must be open for inspection and investigation during business hours and at other times of apparent activity, including any locked areas.
- May not violate transfer of ownership requirements of section 2450 or abandon the premises or cease operations without 24-hour advance notice to the state licensing authority and the municipality and without accounting for and destroying all marijuana and marijuana products.
- Must comply with employment policies as set forth in section 2454, subsection 2.
- State licensing authority may require posting of a bond or other guarantee to guarantee payment of taxes.
- May not employ a person under 21 years of age.

4. Premises

- Must meet security requirements.
- Municipality may limit location and operation of stores and may prohibit stores.
- May not have on premises or in licensee's possession marijuana the sale of which is not permitted by the license.
- May not have on premises marijuana, marijuana products or marijuana paraphernalia that shows evidence of retail marijuana having been consumer or partially consumed.

5. Requirements when making a sale of marijuana or marijuana products

- Prohibit sale of edible marijuana product containing greater than 10 milligrams active THC in a single serving or 100 milligram active THC in a single package.
- Prohibit any individual sale transaction of greater than the legal possession limit for a person of marijuana or its equivalent in products, exempting nonedible, non-psychoactive products, ointments, etc.
- May not sell to a person under age 21.
- Person under age 21 may not purchase marijuana or marijuana products.
- Prior to making a sale employee must verify that purchaser has a valid government-issued ID card or other acceptable ID showing that the purchaser is 21 years of age or older.
- May not sell to a person who is visibly intoxicated.
- Action taken in reliance on offered fraudulent proof of age is not grounds for license revocation or suspension.
- Retail marijuana product may not contain an additive designed to make the product more appealing to children.
- All marijuana and marijuana products must be packaged and sold in accordance with law and rules.
- May sell prepackaged marijuana and marijuana products that meet packaging and labelling requirements in accordance with law and rules.
- Sale is subject to sales tax.
- State licensing authority may not fix prices.
- Each individual sale limited to the personal possession limitation for legal marijuana.
- May not sell a mature marijuana plant.

6. Other

- Marijuana and marijuana products may not be given as prize, premiums, consideration for a lottery, contest, game of chance, game of skills or competition of any kind.

ADDITIONAL DISCUSSION REQUIRED

- *Must be 500 feet from an elementary or secondary school. W O*
- *Municipality may decrease distance requirement if it finds the decrease will not negatively impact civil regulatory enforcement, criminal law enforcement, public safety or public health.*

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Updated requirements for Retail Marijuana Social Clubs, July 27
Prepared by OPLA at the direction of the MLI Chairs

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CONSENSUS REACHED

- Delay issuance of licenses for retail marijuana social clubs until June 1, 2019.

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Updated requirements for municipal control of retail marijuana establishments and retail marijuana social clubs, July 27

Prepared by OPLA at the direction of MLI chairs

CONSENSUS

- Give plantations the same authority as municipalities to regulate retail marijuana businesses.
- Direct state licensing authority rules on training in enforcement of MLA to training of law enforcement agencies, rather than “local jurisdictions”.
- Prohibit all retail marijuana business operations within a municipality unless and until approved by the municipality.
- Separate state licensing for retail marijuana businesses and municipal licensing.
- Give municipalities authority to limit number of all five types of retail marijuana businesses, rather than just “marijuana retail stores”.
- Eliminate communication of “municipal preference” to state licensing authority if number of applications exceeds maximum allowed by municipality.
- Repeal cultivation facility’s entitlement to expand use into a retail store notwithstanding the municipal limitation on the number of retail stores. Allow co-location when all appropriate licenses have been secured.
- Provide that municipal home rule applies to land use regulation and licensing of retail marijuana businesses.
- Separate licensing fees: state may keep all of the state licensing fee; municipality may impose its own licensing fee.
- Require municipal licensing standard for an initial license to be no more stringent than specifically-established state licensing standards, but allow municipality to apply operational standards that apply to different issues.
- Separate state and municipal processes on transfer of ownership.
- Separate state and municipal processes on relocation of a business.
- Require state licensing authority to notify municipality within 14 days of any decisions to approve, renew, deny or revoke a license, or approve a relocation or transfer of ownership, and require similar notice from municipality to state licensing authority.
- Link current financial penalty statute that governs violations of certain municipal ordinances to violations of municipal marijuana ordinances.
- Provide that state approval of a municipal marijuana ordinance or other regulation may not be required (no reference to right to farm law though).