

South Portland City Council  
***Position Paper of the City Manager***

***Subject:***

**ORDINANCE #9-17/18 - Amending Chapter 14, "Licensing," of the Code of Ordinances to establish licensing regulations regarding Retail Marijuana Establishments. Passed first reading on October 2, 2017. ROLL CALL VOTE. Passage requires majority vote.**

***Position:***

Following guidance provided to staff at the August 14, 2017 and September 25, 2017 City Council workshops; staff brought forward revised ordinance language for Council action regarding the licensing of marijuana establishments. This item had first reading at the October 2, 2017 and is now back before the City Council for Public Hearing and action.

These proposed Licensing Ordinance amendments prohibit social clubs (for now) and require products manufacturing facilities to obtain a license. These amendments rely somewhat (*e.g.*, for statutory citations and definitions) on the draft bill recently released by the Marijuana Legalization Implementation Committee that is currently under consideration by the Maine Legislature. There will most certainly need to be changes made to the Licensing Ordinance once the Legislature finalizes its action on the bill and related State regulations are adopted. At second reading on these amendments, a companion order will be presented to the Council for action that puts in place a 6-month internal review process related to these amendments. In addition, at second reading, a companion order amending the Master Fee Schedule will recommend setting the license fees for marijuana establishments as follows: \$1,400 for Marijuana Stores (Class II), \$600 for Marijuana Cultivation Facilities (Class II), and \$300 for Marijuana Products Manufacturing Facilities (Class I). These amounts are based on the current alcohol licensing fee schedule.

Assistant City Manager Josh Reny, Planning Director Tex Haeuser, City Clerk Emily Scully, and Corporation Counsel Sally Daggett will be present at Monday's meeting to answer any questions.

***Requested Action:***

Council passage of Ordinance #9-17/18.

A handwritten signature in black ink, appearing to be "S. J. ...", written over a horizontal line. The signature is stylized and cursive.

City Manager



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH  
Mayor

SCOTT T. MORELLI  
City Manager

EMILY F. SCULLY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

District One  
CLAUDE V. Z. MORGAN

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District Two  
PATRICIA A. SMITH

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District Three  
EBEN C. ROSE

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District Four  
LINDA C. COHEN

\_\_\_\_\_

District Five  
BRAD FOX

\_\_\_\_\_

At Large  
MAXINE R. BEECHER

\_\_\_\_\_

At Large  
SUSAN J. HENDERSON

**IN CITY COUNCIL**

**ORDINANCE #9-17/18**

THE COUNCIL of the City of South Portland hereby ordains that Chapter 14, "Licenses, Permits and Business Regulations Generally," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (additions are underlined; deletions are ~~struck out~~):

**Chapter 14**

**LICENSES, PERMITS AND BUSINESS REGULATIONS GENERALLY**

**ARTICLE I. IN GENERAL**

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**Sec. 14-3. License regulations; schedule.**

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**KEY TO SCHEDULE:**

- CC Denotes license granted by City Council
- CLK Denotes license granted by City Clerk
- CMR Code of Maine Rules
- MRSA Denotes Maine Revised Statutes Annotated, as may be amended from time to time
- OY Denotes one year from date of issuance
- P Denotes Permit
- L Denotes License
- Police Denotes review of application by Police Department required prior to issuance or renewal, unless otherwise noted
- Fire Denotes review of application by Fire Department required prior to issuance or renewal, unless otherwise noted
- Health Denotes review of application by Health Officer required prior to issuance or renewal, unless otherwise noted
- CEO Denotes review of application by Code Enforcement Department required prior to issuance or renewal, unless otherwise noted
- Finance Denotes review of application by Finance Director required prior to issuance or renewal, unless otherwise noted
- Corp Denotes review of application by Corporation Counsel required prior to issuance or renewal, unless otherwise noted
- Water Denotes review of application by Water Resource Protection Department required prior to issuance or renewal, unless otherwise noted
- PW Denotes review of application by Public Works Department required prior to issuance or renewal, unless otherwise noted
- Parks Denotes review of application by Parks, Recreation & Waterfront Department required prior to issuance or renewal, unless otherwise noted

Business or Occupation	Reference	P/L	Granted by	Exp	Additional Review by
• • •	• • •	• • •	• • •	• • •	• • •
<a href="#">Marijuana Establishments</a>	<a href="#">28-B MRSA § 101 et seq.; § 14-770 et seq.</a>				
<a href="#">Marijuana Cultivation Facility</a>	<a href="#">28-B MRSA § 101 et seq.; § 14-770 et seq.</a>	<a href="#">L</a>	<a href="#">CC/CLK</a>	<a href="#">OY</a>	<a href="#">Police/Fire/Health/CEO if new license</a>
<a href="#">Marijuana Products Manufacturing Facility</a>	<a href="#">28-B MRSA § 101 et seq.; § 14-770 et seq.</a>	<a href="#">L</a>	<a href="#">CC/CLK</a>	<a href="#">OY</a>	<a href="#">Police/Fire/Health/CEO if new license</a>
<a href="#">Marijuana Social Club</a>	<a href="#">Prohibited</a>	<a href="#">Prohibited</a>	<a href="#">Prohibited</a>	<a href="#">Prohibited</a>	<a href="#">Prohibited</a>
<a href="#">Marijuana Store</a>	<a href="#">28-B MRSA § 101 et seq.; § 14-770 et seq.</a>	<a href="#">L</a>	<a href="#">CC/CLK</a>	<a href="#">OY</a>	<a href="#">Police/Fire/Health/CEO if new license</a>
<a href="#">Marijuana Testing Facility</a>	<a href="#">N/A - License not required</a>	<a href="#">N/A - License not required</a>	<a href="#">N/A - License not required</a>	<a href="#">N/A - License not required</a>	<a href="#">N/A - License not required</a>
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**ARTICLE XVI. ~~MORATORIUM ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS~~**

**~~Sec. 14-770.—Moratorium declared.~~**

~~WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act,” to be codified in the Maine Revised Statutes in Title 7, Chapter 417 (the “Act”), was adopted by the voters at a State-wide referendum election on November 8, 2016; and~~

~~WHEREAS, the Act, subject to a pending recount that may change the result of that referendum vote, will take effect 30 days after the Governor proclaims the official results of the election; and~~

~~WHEREAS, the Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the local option to prohibit or limit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and~~

~~WHEREAS, the Act requires the Department of Agriculture, Conservation and Forestry (the “CAF Department”), as the State licensing authority for retail marijuana establishments and social clubs, to adopt rules within nine months of the effective date of the Act; and~~

~~WHEREAS, the Act authorizes municipalities to impose a separate local licensing requirement as part of their restrictions on time, place, manner and number of retail marijuana establishments and social clubs; and~~

~~WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421—2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and~~

~~WHEREAS, the City’s current Code of Ordinances does not include any licensing regulations related to retail marijuana establishments or retail marijuana social clubs; and~~

~~WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the City of South Portland raises legitimate and substantial questions about the impact of such establishments and social clubs on the City, including questions about the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the City’s public safety departments; and the adequacy of the City’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and~~

~~WHEREAS, the possible effect of the unregulated location and operation of retail marijuana establishments and/or retail marijuana social clubs within the City has~~

~~potentially serious implications for the health, safety and welfare of the City and its residents; and~~

~~WHEREAS, the City needs time to review the Act and CAF Department rules proposed to be adopted pursuant to the Act and to review its own Code of Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and~~

~~WHEREAS, the City's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated location and operation of retail marijuana establishments and social clubs authorized by the changes in law voted on at the November 8, 2016 referendum election, thereby necessitating a moratorium; and~~

~~WHEREAS, the City Council, with the professional advice and assistance of the City Clerk and such professional advice and assistance as it deems necessary and appropriate, shall study the City's current Code of Ordinances to determine the licensing and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and~~

~~WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by the changes in law voted on at the November 8, 2016 referendum election, being located in the City; and~~

~~WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the City enacts this moratorium on retail marijuana establishments and retail marijuana social clubs;~~

~~NOW, THEREFORE, the City of South Portland, acting through its City Council, does hereby ordain that the following Article be, and hereby is, enacted, and, in furtherance thereof, the City does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the City. This Article shall take effect in accordance with the provisions of the City Charter, but shall be applicable as of November 21, 2016, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Article, unless extended, repealed, or modified by the City Council, for the express purpose of drafting an amendment or amendments to Chapter 14 of the City's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in the City; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with~~

~~the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety departments serving the City in responding to the same; and the adequacy of the City's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the City.~~

~~—————BE IT FURTHER ORDAINED, that this Article shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act to be codified at 7 M.R.S.A. §§ 2442(35), (36), (38), (39), (40) and (41), that may be proposed to be located within the City on or after the November 21, 2016 applicability date of this Article; and~~

~~BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Article, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a business license and/or any other required approval has not been submitted to and granted final approval by the City Clerk, City Council or other City official or board prior to November 21, 2016, the applicability date of this Article; and~~

~~BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the City on or after the November 21, 2016 applicability date of this Article without complying with whatever ordinance amendment or amendments the City Council may enact as a result of this Article; and~~

~~—————BE IT FURTHER ORDAINED, that during the time this moratorium is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license and/or any other required approval or any permits or approvals related to a retail marijuana establishment or retail marijuana social club under Chapter 14 of the Code of Ordinances; and~~

~~—————BE IT FURTHER ORDAINED, that those provisions of Chapter 14 of the Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and~~

~~BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana social clubs are established in violation of this Article, each day of any continuing violation shall constitute a separate violation of this Article, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and~~

~~—————BE IT FURTHER ORDAINED, that should any section or provision of this Article be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.~~

(Ord. No. 7-16/17, 11/21/16 [Fiscal Note: Less than \$1000])

**Sec. 14-771. — Applicability date.**

—The applicability date of this Article is November 21, 2016.

(Ord. No. 7-16/17, 11/21/16 [Fiscal Note: Less than \$1000])

**Sec. 14-772. — Moratorium extended.**

~~WHEREAS, a ballot initiative to legalize, regulate, and tax marijuana for non-medical purposes — known as the “Marijuana Legalization Act” and codified in the Maine Revised Statutes as Chapter 417 of Title 7 (“the Act”) — was the subject of a state-wide referendum election on November 8, 2016;~~

~~WHEREAS, the results of the ballot initiative were certified by the Secretary of State and subsequently proclaimed by the Governor on December 31, 2016, and the Act became law effective on January 30, 2017;~~

~~WHEREAS, applicable as of January 30, 2017, the Maine Legislature amended the Act to reflect that its operative provisions — including the provisions pertaining to State licensing and municipal regulation — do not become effective until February 1, 2018;~~

~~WHEREAS, pursuant to the Act, the State of Maine licensing authority must adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the Act on or before November 30, 2017;~~

~~WHEREAS, a moratorium on retail marijuana establishments and retail marijuana social clubs was enacted by the City Council on December 19, 2016 for a period of one hundred and eighty (180) days from the date of applicability of the moratorium, *i.e.*, until May 20, 2017;~~

~~WHEREAS, the Maine Legislature’s Joint Select Committee on Marijuana Legalization Implementation is working to help guide the state agencies that will craft the rules and regulations around the recreational marijuana industry;~~

~~WHEREAS, the State of Maine licensing authority that is to draft the rules and regulations around the recreational marijuana industry has not done so yet;~~

~~WHEREAS, the City needs to know the State of Maine regulatory framework for the recreational marijuana industry before it can determine the local licensing and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and~~



~~WHEREAS, the problems giving rise to the need for the moratorium still exist and reasonable progress is being made to alleviate the problems;~~

~~NOW, THEREFORE, the City of South Portland, acting through its City Council, does hereby ordain that all provisions of Secs. 14-770 and 14-771 are hereby extended for an additional one hundred and eighty (180) days from May 21, 2017 to November 16, 2017.~~

~~(Ord. No. 19-16/17, 5/1/17 [Fiscal Note: Less than \$1000])~~

**Sec. 14-770. Purpose.**

The purpose of this Article is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in this Article and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended.

**Sec. 14-771. Authority.**

This Article is adopted pursuant to the authority granted by 28-B M.R.S.A. § 401 et seq., as may be amended.

**Sec. 14-772. Definitions.**

As used in this Article, the following words and phrases shall have the meanings ascribed to them in this section.

*Adult use marijuana* shall mean “adult use marijuana” as that term is defined in 28-B M.R.S.A. § 102(1), as may be amended.

*Adult use marijuana product* shall mean “adult use marijuana product” as that term is defined in 28-B M.R.S.A. § 102(2), as may be amended.

*Applicant* shall mean a person that has submitted an application for licensure as a Marijuana Establishment pursuant to this Article.

*Cultivate* or *cultivation* shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming of other processing of marijuana for use or sale. It does not include manufacturing.

*Licensed premises* shall mean the premises specified in an application for a State or Local License pursuant to this Article that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana or adult use marijuana products in accordance with the provisions of this Article and the requirements of State law and regulations.

Licensee shall mean a person licensed pursuant to this Article or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Article.

Local License shall mean any license required by and issued under the provisions of this Article.

Local Licensing Authority shall mean the City Clerk or the City Council, as further specified in the provisions of this Article.

Manufacture or manufacturing shall mean the production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. It does not include cultivation.

27. Marijuana. "Marijuana" means the leaves, stems, flowers

Marijuana shall mean "marijuana" as that term is defined in 28-B M.R.S.A. § 102(27), as may be amended.

Marijuana concentrate shall mean the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Marijuana Cultivation Facility shall mean a "cultivation facility" as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended. A Marijuana Cultivation Facility is an entity licensed to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to Marijuana Establishments.

Marijuana Establishment shall mean a "marijuana establishment" as that term is defined in 28-B M.R.S.A. § 102(29), as may be amended. A Marijuana Establishment is a Marijuana Store, a Marijuana Cultivation Facility, a Marijuana Products Manufacturing Facility, a Marijuana Testing Facility or a Marijuana Social Club.

Marijuana Products Manufacturing Facility shall mean a "products manufacturing facility" as that term is defined in 28-B M.R.S.A. § 102(42), as may be amended. A Marijuana Products Manufacturing Facility is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a Marijuana Cultivation Facility only to other Marijuana Products Manufacturing Facilities, Marijuana Stores and Marijuana Social Clubs.

Marijuana Social Club shall mean a "marijuana social club" as that term is defined in 28-B M.R.S.A. § 102(33), as may be amended. A Marijuana Social Club is an entity licensed to purchase adult use marijuana products from a Marijuana Products Manufacturing Facility and to sell adult use marijuana products to consumers for consumption on the licensed premises. Marijuana Social Clubs are prohibited within the City.

Marijuana Store shall mean a “marijuana store” as that term is defined in 28-B M.R.S.A. § 102(34), as may be amended. A Marijuana Store is an entity licensed to purchase adult use marijuana from a Marijuana Cultivation Facility and to purchase adult use marijuana products from a Marijuana Products Manufacturing Facility and to sell adult use marijuana and adult use marijuana products to consumers.

Marijuana testing facility shall mean a “testing facility” as that term is defined in 28-B M.R.S.A. § 102(53), as may be amended. A Marijuana Testing Facility is facility licensed to develop, research and test marijuana, marijuana products and other substances.

Owner shall mean a person whose beneficial interest in a Marijuana Establishment is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Marijuana Establishment and has a controlling interest in a Marijuana Establishment.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not include any governmental organization.

State License shall mean any license issued by the State Licensing Authority.

State Licensing Authority shall mean the authority created by the State for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of adult use marijuana and adult use marijuana products in this State.

**Sec. 14-773. Marijuana Establishments.**

Marijuana Establishments shall be allowed, subject to the requirements and restrictions of this Chapter and Chapter 27 of this Code.

**Sec. 14-774. Prohibited Activities.**

- (a) No Marijuana Establishment shall be established or operated within the City without first receiving and then maintaining all approvals required under this Code, including, but not limited to, this Chapter and Chapter 27 of the Code.
- (b) No Marijuana Establishment shall conduct any activity for which it has not received the required State License and Local License.
- (c) Marijuana Social Clubs are prohibited within the City.

**Sec. 14-775. License Required.**

- (a) State License. A Marijuana Establishment shall not operate until it is licensed by the State Licensing Authority pursuant to the requirements of 28-B M.R.S.A. Chapter 1, as may be amended. An Applicant may not operate a Marijuana Establishment without a State License and all other necessary City approvals.
- (b) Local License. A Local License issued under the provisions of this Article is required for any Marijuana Cultivation Facility, Marijuana Products Manufacturing Facility, or Marijuana Store. A Marijuana Testing Facility does not require a Local License.

**Sec. 14-776. License Classes.**

- (a) A Class I license shall be required for Marijuana Products Manufacturing Facilities.
- (b) A Class II license shall be required for Marijuana Cultivation Facilities and Marijuana Stores.

**Sec. 14-777. Licensing Authority.**

- (a) Class I licensing procedures.
  - (1) All Class I license applications, whether new or renewal, shall be reviewed and may be approved by the City Clerk. Application shall be made on a form prepared by the City and must include all information required by Sec. 14-779 of this Article and by the form. Prior to action on a Class I application, the City Clerk shall give public notice of the application by posting a sign in a conspicuous place on the premises identified in an Application for Local License at least seven (7) days prior to action and by publication in a newspaper of general circulation in Cumberland County at least seven (7) days prior to action.
  - (2) A Class I renewal application shall be subject to the same review standards and notice requirements as applied to the initial issuance of the license. As part of the renewal process, the City Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the City Clerk determines that a hearing on a Class I renewal application is necessary and appropriate, the City Clerk may elect to defer action on a renewal application and refer the matter to the City Council for public hearing and action.
- (b) Class II licensing procedures.
  - (1) The initial application for a Class II license shall be processed by the City Clerk but reviewed and may be approved by the City Council. Application

shall be made on a form prepared by the City and must include all information required by Sec. 14-779 of this Article and by the form.

(2) Public hearing. A public hearing on an application for a Class II license shall be scheduled after receipt of a completed application pursuant to Sec. 14-779. The City Clerk shall post and publish public notice of the hearing not less than seven (7) days prior to the hearing. The City Clerk shall give public notice by posting a sign in a conspicuous place on the premises identified in an Application for Local License and by publication in a newspaper of general circulation in Cumberland County.

(3) A Class II renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a Class I new application. As part of the renewal process, the City Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the City Clerk determines that a hearing on a Class II renewal application is necessary and appropriate, the City Clerk may elect to defer action on a renewal application and refer the matter to the City Council for public hearing and action.

(c) Responsibilities and review authority.

(1) The City Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article. The City Clerk may consult with other City Departments and any appropriate State Licensing Authority as part of this investigation.

(2) The Licensing Authority shall have the authority to impose any conditions on a license that may be necessary to insure compliance with the requirements of this Chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.

(3) No Local License shall be granted by the Licensing Authority until the Police Chief, the Fire Chief, the Health Inspector and, if applicable, the Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this Article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the City authorized to make the inspection at any reasonable time that admission is requested.

**Sec. 14-778. License Fees.**

Fees for a Local License shall be as set forth in the Schedule of License, Permit, Inspection and Application Fees established by City Council order and shall be paid annually.

**Sec. 14-779. Application.**

(a) Application required. Each Applicant for a Class I or Class II license shall complete and file an application on a form prescribed by the City Clerk, together with a license fee as required by Sec. 14-778 of this Article and as specified in the Schedule of License, Permit, Inspection and Application Fees, together with the following submissions:

1. A copy of the Applicant's State License Application and supporting documentation as filed with the State Licensing Authority, and any amendments thereto.
2. Evidence of all State approvals or conditional approvals required to operate a Marijuana Establishment, including, but not limited to, a State License as defined by this Article, a State retail certificate, or a State health license.
3. If not included in the Applicant's State License Application, attested copies of the articles of incorporation and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.
4. If not included in the Applicant's State License Application, an affidavit that identifies all owners, officers, members, managers, or partners of the Applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three (3) years.
5. If not included in the Applicant's State License Application, a release authorized by 16 M.R.S.A. § 620(6), as may be amended, with the application for each Applicant and for each officer, owner, member, manager, or partner of the Applicant seeking a Local License.
6. Evidence of all land use approvals or conditional land use approvals required to operate a Marijuana Establishment pursuant to the Code of Ordinances, including, but not limited to, a building permit, special exception approval, site plan approval, change of use permit or certificate of occupancy.

7. Evidence of all other local approvals or conditional approvals required to operate a Marijuana Establishment pursuant to the Code of Ordinances, including, but not limited to, food license or victualer's license.
8. A description of the premises for which the Local License is sought, including a plan of the premises.

(b) Complete application. In the event that the City Clerk determines that a submitted application is not complete, the City Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

**Sec. 14-780. License Expiration and Renewal.**

(a) Each Local License issued shall be effective for one year from the date of issuance.

(b) Renewal applications must be submitted prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.

**Sec. 14-781. Denial, Suspension or Revocation of License.**

In addition to the provisions set forth in Sec. 14-8 of this Chapter, the following applies:

(a) A Local License under this Article shall be denied to the following persons:

(1) A person who fails to meet the requirements of this Article. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.

(2) A person who has had a license for a Marijuana Establishment revoked by the City or by the State.

(3) An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.

(b) The City may suspend or revoke a license for any violation of this Chapter, Chapter 27 or any other applicable building and life safety code requirements. The City may suspend or revoke a license if the licensee has a State License for a Marijuana Establishment suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation.

**Sec. 14-782. Operating Requirements.**

The Licensee shall comply with all of the following requirements during the term of the Local License:

- (a) Display of License. The current Local License shall be displayed at all times in a conspicuous location within the Licensed Premises.
- (b) Location. All Licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Establishments in temporary locations such as mall kiosks or farm stands.
- (c) Compliance with other laws. A Marijuana Establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing Marijuana Establishments, the stricter law or regulation shall control.

**Sec. 14-783. Transfer of Ownership and Change of Location.**

Licenses issued under this Article are not transferable to a new owner. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location.

**Sec. 14-784. Appeals.**

- (a) Any appeal of a decision of the City Clerk under the provisions of this Article shall be made to the City Council. The City Council shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the application meets the requirements of this Article.
- (b) Any appeal of a decision of the City Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

**Sec. 14-785. Violations and Penalties.**

The operation of any Marijuana Establishment without the required Local License or in violation of the requirements of this Chapter shall be a violation of this Chapter. Violations shall be subject to fines as set forth in this Chapter. Each day of a violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of Sec. 14-781 of this Article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its attorney's fees.



**Sec. 14-786. Severability.**

The provisions of this Article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

**Sec. 14-787. Other Laws.**

Except as otherwise specifically provided herein, this Article incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended. In the event of a conflict between the provisions of this Chapter and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

**Sec. 14-788. Effective Date.**

This Article shall take effect pursuant to the City Charter. However, no application for any Local License shall be acted upon until the effective date of regulations promulgated and adopted pursuant to 28-B M.R.S.A. Chapter 1, as may be amended.

Fiscal Note: Less than \$1,000

October 2, 2017