

Order 283-09/10

Given first reading, public hearing & referred to Planning Board on 6/21/10

Public Hearing, Amended & Passed 7/19/10 8-0 (Skolnik absent)

NICHOLAS M. MAVODONES (MAYOR)

KEVIN J. DONOGHUE (1)

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CITY OF PORTLAND

IN THE CITY COUNCIL

JOHN R. COYNE (5)

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DORY RICHARDS WAXMAN (A/L)

JILL C. DUSON (A/L)

AMENDMENT TO PORTLAND CITY CODE

CHAPTER 14. LAND USE

ARTICLES III. ZONING

DIVISIONS 1, 12 and 17.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

PREAMBLE

Whereas, the voters of the State of Maine passed the **Maine Medical Marijuana Initiative** of 1999 with a State-wide margin of 61.4% and a margin of 72.5% in the City of Portland.

Whereas, the medicinal marijuana patients in the State of Maine legally used marijuana as a medicine for major debilitating illnesses, such as cancer and AIDS, since 1999; and

Whereas, the medicinal marijuana patients caregivers in the State of Maine legally cultivated marijuana as medicine and provided the medicine to patients for major debilitating illnesses since 1999; and

Whereas, the voters of the State of Maine passed amendments to the **Maine Medical Marijuana Initiative** of 2009 to create medicinal marijuana dispensaries with a State-wide margin of 58.61% and a margin of 75.4% in the City of Portland; and

Whereas, Public Law, Chapter 631, L.D. 1811, An Act to Amend the Maine Medical Marijuana Act was enacted as emergency legislation on April 19, 2010; and

Whereas, under the new law and the emergency regulations both registered dispensaries and registered caregivers are allowed to provide and grow marijuana for the purpose of providing medical marijuana to registered and qualifying patients; and

Whereas, current zoning does not define registered dispensary nor does it include registered dispensary as a permitted or conditional use; and

Whereas, section 2428(10) specifically limits local regulation by stating, "This chapter does not prohibit a political subdivision of this State from limiting the number of dispensaries that may operate in the political subdivision or from enacting reasonable regulations applicable to dispensaries.; and

Whereas, section 2423-E, Prohibited acts against persons or entities engaged in authorized conduct for the medical use of marijuana specifically states, "1. Rights of persons or entities acting pursuant to this chapter. A person whose conduct is authorized under this chapter may not be denied any right or privilege or be subjected to any penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under this chapter."; and

Whereas, Cumberland County is authorized to have only one registered dispensary; and

Whereas, Portland is the Seat of Cumberland County, the service center, and largest municipality of Cumberland County; and

Whereas, Portland's Downtown Business Zones - the B3 Zones and the B7 Zones - are easily accessible by public transportation and are central to social services; and

Whereas, Medicinal Marijuana patients deserve continued and improved access at their medicine as they legally have for eleven (11) years.

BE IT ORDERED, that sections 14-47, 14-217 and 14-295 of the Portland City Code be hereby amended to read as follows:

Sec. 14-47. Definitions.

. . .

Registered Medical Marijuana dispensary: "Registered medical marijuana dispensary" or "dispensary" means a not-for-profit entity registered under 22 M.R.S.A. section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use, and the registered primary caregivers of those patients.

Registered Medical Marijuana Cultivation Facility:
"Registered Medical Marijuana Cultivation Facility" means a facility registered under 22 M.R.S.A. section 2428 that cultivates and manufactures marijuana or related supplies for a "Registered medical marijuana dispensary" under common management and operating under the same state and local license(s).

. . . .

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited in these zones unless otherwise provided in section 14-183:

. . . .

(b) *Business:*

20. Registered Medical Marijuana dispensaries.

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

. . . .

(2) *Business:*

. . . .

- r. Registered Medical Marijuana dispensaries.

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

(a) *Business:*

. . . .

23. Registered Medical Marijuana Cultivation Facilities.

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the low impact industrial zone and the I-Lb zone:

. . . .

- (r) Registered Medical Marijuana Cultivation Facilities.

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and I-Mb zone:

. . . .

- (v) Registered Medical Marijuana Cultivation Facilities.

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the high impact industrial zone and the I-Bb zone:

. . . .

- (t) Registered Medical Marijuana Cultivation Facilities.

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

. . . .

- (a) Commercial:

. . . .

- 22. Registered Medical Marijuana dispensaries.