935 CMR 500.000
Regulations for the Adult Use of Marijuana
Safe ✦ Equitable ✦ Sustainable
Draft Regulations, 935 CMR 500 Licensing Process

Application of Intent
- Incorporation
- Capital
- Bond
- Property Interest
- Municipal Information
- Positive Impact on DIA

Background Check
- All executives, managers, persons or entities with direct or indirect authority over the management policies, cultivation or security operations
- Fingerprint check
- Nationwide civil & criminal

Management and Operations Profile
- Certificate of Good Standing with SoS and DOR
- Business Plan
- Operating Policies and Procedures
- Training Plan
Zoning bylaws or ordinances are not permitted to operate to **prevent** the conversion of an RMD registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity.

The Commission interprets **conversion** to include not only replacing the operation of a registered marijuana dispensary entirely with the operation of a marijuana establishment, but also to address adding marijuana establishment operations to the operations of a registered marijuana dispensary.

Please note that there is legislation pending ([https://malegislature.gov/Bills/190/H4284](https://malegislature.gov/Bills/190/H4284)) that clarifies this interpretation.

In other words, a registered marijuana dispensary that has received its provisional or final registration no later than July 1, 2017 is grandfathered against zoning bylaws or ordinances that would prevent it from conducting the same type of activities for adult use of marijuana that it is engaged in for medical use of marijuana.
A Moratorium of a Reasonable Length of Time is Permitted.

- Although municipalities are prohibited from using a zoning bylaw or ordinance to *prevent* the conversion of a registered marijuana dispensary, the Commission does not interpret the word *prevent* to prohibit the municipality from imposing a moratorium, a *temporary* delay passed as a zoning amendment to allow a municipality to engage in a planning process to determine how best to zone marijuana establishments for adult use in its community.

- The Commission will interpret the reasonableness of the length of a moratorium in a manner consistent with the opinions issued by the Attorney General’s Office in reviewing moratoria proposed by communities, which for the most part, has allowed moratoria through December 31, 2018.

- When the moratorium expires, the Commission cautions local officials from amending their zoning bylaws or ordinances in a manner that could be deemed to conflict with the statute and recommends consulting the City Solicitor and Town Counsel regarding any zoning amendments.
Additional Local Permits for Adult Use May Be Required

- Although municipalities are prohibited from using a zoning bylaw or ordinance to *prevent* the conversion of a registered marijuana dispensary, the Commission does not interpret the word *prevent* to prohibit the municipality from requiring a registered marijuana dispensary eligible under the statute to apply for any additional local permits required to change its existing operation with a marijuana establishment for adult use.

- The Commission cautions local permitting boards from exercising their discretion in acting on a request for a local permit in a manner that could be deemed to conflict with the statute and recommends consulting the City Solicitor and Town Counsel during their decision-making.
Banning or Limiting the Number of Marijuana Establishments in a Municipality

There are two different procedures for proceeding, which depend on how the municipality voted on the ballot initiative to legalize marijuana in 2016, if the governing body of a municipality seeks to:

- **Ban** marijuana retailers from operating in the municipality,
- **Limit** the number of them to fewer than 20% of the number of liquor licenses, or
- **Limit** the number of any type of marijuana establishment to fewer than the number of RMDs registered to engage in the same type of activity in the city or town.
Impact of Banning or Limiting the Number of Marijuana Establishments in a Municipality

- **Ban:** If a municipality enacts a complete prohibition on marijuana establishments for adult use through a general bylaw or ordinance, the Commission will not issue a license so as to authorize the conversion of a registered marijuana dispensary to a marijuana establishment for adult use in that municipality.

- **Limited Number:** If a municipality adopts a general bylaw or ordinance imposing a limitation on the number of marijuana establishments within its community, such that the amount allowed is less than the registered marijuana dispensaries within that community, the municipality must determine which registered marijuana dispensaries will be permitted to proceed to the application process for adult use by executing a host community agreement with those dispensaries.
Priority Applicants:

• Priority RMD Applicant means a registered marijuana dispensary with a final or provisional certificate of registration in good standing with the Department of Public Health or Commission, as applicable.

• Economic Empowerment Applicant means an applicant who meet certain criteria demonstrating experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under chapter 94C.
Economic Empowerment Priority Applicants must demonstrate 2 of the following:

- Majority of ownership belongs to people who have lived in *areas of disproportionate impact* for 5 of the last 10 years;

- Majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;

- At least 51% of current employees/sub-contractors reside in *areas of disproportionate impact* and will increase to 75% by first day of business;

- At least 51% of employees or sub-contractors have drug-related CORI, but are otherwise legally employable in a cannabis-related enterprise;

- Owners can demonstrate significant past experience in or business practices that promote economic
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Communities of Disproportionate Impact

Abington
Amherst
Boston
Braintree
Brockton
Chelsea
Fall River
Fitchburg
Greenfield
Haverhill
Holyoke
Lowell
Lynn
Mansfield
Monson
New Bedford
North Adams
Pittsfield
Quincy
Randolph
Revere
Southbridge
Spencer
Springfield
Taunton
Walpole
Wareham
West Springfield
Worcester
Eligibility

*One or more of the following criteria must be met:*

- Residency in an area of disproportionate impact, demonstrated by:
  - As defined by the Massachusetts driver’s record or Massachusetts ID card record;
  - A signed lease agreement that includes the subject’s name;
  - Residential property deed that includes the subject’s name;
  - School records;
  - Housing authority records;
  - Banking records;
  - Utility bills, which identifies energy and water use; or
  - Dated notices or correspondence from a local or state government entity that includes the subject’s name.

- Residency in Massachusetts for at least the preceding 12 months and a conviction for a 94C offense under M.G.L. c. 94C or an equivalent conviction in another jurisdiction; or

- Residency in Massachusetts for at least the preceding 12 months and proof that the individual was either married to or the child of an individual convicted under M.G.L. c. 94C or an equivalent conviction in another jurisdiction.
Training

- Management, recruitment and employee trainings;
- Accounting and sales forecasting;
- Tax prediction and compliance;
- Legal compliance;
- Business plan creation and operational development;
- Marijuana industry best practices; and
- Assistance with identifying or raising funds or capital
Background Check Packet includes:

- CORI check form(s) to be completed by each person listed on license application;
- Requirement for fingerprinting that enables a multi-state criminal history check;
- Narrative information from individuals listed on the application as executives, managers, close associates and members that includes:
  - Any criminal, civil or administrative actions under MA laws or laws of another state;
  - Actions against any professional or occupational license;
  - Enforcement actions related to other marijuana-related businesses.
Mandatory finding that an applicant is unsuitable for licensure

- Applicants with Open or Unresolved Criminal Proceedings **at the time of application**, the disposition of which may result in a felony conviction but excluding solely marijuana-related proceedings under M.G.L. c. 94C, §34
  - Applicants with felony convictions, except for solely marijuana-related convictions, are barred from licensure.
- Applicants with Open or Unresolved Marijuana Business-Related violations in MA or another state **at the time of application**;
- Sex offender registration in any jurisdiction;
- Conviction or CWOF for distribution of a controlled substance to a minor
  - Likely to be a felony, but wanted to highlight as the Legislature did in our enabling statute, c. 55 of the Acts of 2017.
Presumptive Negative Suitability Determination

- Commission established standards that allow it to consider when a factor makes an applicant unsuitable for licensure.

- Examples of factors where licensee presumed to be unsuitable, but applicant may rebut the presumption:
  - Outstanding or Unresolved Criminal Warrants
  - Non-felony weapons charges involving narcotics
  - Firearms crimes
  - Multiple criminal complaints in the preceding 5 years
• All marijuana and marijuana products must be handled in compliance with sanitary requirements.

• Edible marijuana products are not considered food under the law, but must be handled in compliance with sanitary requirements for wholesale manufacturing, retail sale and transportation of food.

• All marijuana and marijuana products must be tested in compliance with the testing protocols established by the Department of Public Health.

• All marijuana and marijuana products must be tracked from seed to sale in interoperable database.

• $5,000 bond or cash to be posted in the event of the need to destroy cannabis or cannabis products.

• Required compliance with existing state laws on cultivation, waste disposal, etc.

• Energy conservation and environmental requirements.
Cultivators, marijuana product manufacturers, independent laboratories and research facilities must restrict access to only authorized employees and visitors;

All inventory must be tracked on the interoperable system set by the Commission;

Must be alarmed;

Visitors must be logged;

Marijuana and marijuana products must be stored in limited access areas;

24 hour video surveillance is required;

Must be sufficiently lit to allow readable image to be captured;

Security plan filed with local law enforcement.
Access to Retail Stores

- Retailers must check government issued ID to demonstrate someone is 21 years of age or older before allowing anyone access to marijuana establishment for adult use.

- For co-located medical marijuana dispensaries and adult use marijuana establishments, retailers must check government issued ID to demonstrate someone is 21 years of age OR check that someone has a DPH Program ID card showing they are a patient and a government ID showing they are 18 years of age or older.
Permitted Practices

- CAN have logo, but logo CAN’T use medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo;

- Sponsorship of a charitable, sporting or similar event, but marketing limit to audience expected to be 85% 21 years and older according to data;

- Locked display cases inside each establishment;

- Any marketing shall include statement “Please Consume Responsibly” and at least 2 other warnings from menu of choices;

- All marketing must include warning developed by DPH.
Warning Graphics on Marijuana and Marijuana Products
Prohibited Practices

- Deceptive, false, misleading, untrue, or misleading marketing;

- No TV, radio, internet or other electronic communication, billboard or other outdoor advertising, or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older as determined by data;

- Using statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age;

- Mascots, cartoons, brand sponsorships and celebrity endorsements deemed to appeal to a person less than 21 year of age;

- False or misleading statements concerning other licensees and the conduct and products of such other licensees;
Prohibited Practices (cont’d)

- Promotional items prohibited by the Commission, including, but not limited to, giveaways, coupons, or “free” or “donated” marijuana;

- Representations of safety, curative or therapeutic effects, other than labeling required pursuant by regulations, unless supported by evidence or data;

- Installation of any neon signage or any illuminated external signage that fails to comply with all local ordinances and requirements;

- Installation of any external signage that is illuminated beyond the period of 30 minutes before sundown until closing;

- Use of vehicles equipped with radio or loud speakers;
Prohibited Practices (cont’d)

- The use of radio or loud speaker equipment in any Marijuana Establishment for advertising;

- Advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by data;

- Operation of any website of a Marijuana Establishment that fails to verify that the entrant is at least 21 years of age;

- Use of unsolicited pop-up advertisements on the internet;
Prohibited Practices (cont’d)

- Marketing in or on public or private vehicles, at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues, including, wrapping vehicles;

- Marketing marijuana or marijuana products, on clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;

- Signs or other printed matter advertising any brand or kind of marijuana product displayed on the exterior or interior of any licensed premises wherein marijuana products are not regularly and usually kept for sale;

- Marketing price of marijuana or marijuana products, except they can have list in store and website;
Prohibited Practices (cont’d)

- Display of marijuana or marijuana products so as to be clearly visible to a person from the exterior of a Marijuana Establishment;

- Any marketing that fails to contain a health warning by DPH;

- Improper or objectionable nature, including obscene or suggestive statement.
Comprehensive labelling requirements, including:

- Requirements specified for type of product;
- Name and contact information of creator;
- Cannabinoid profile, as well as ingredients;
- Warning re: allergen;
- DPH warning;
- Graphic symbol indicating product contains marijuana and that it is dangerous to children;
- Serving size;
- Batch and serial number;
- Confirmation of testing;
- Directions for use.
Comprehensive packaging requirements:

- Certified by independent third party to be child-resistant;
- Resealable;
- Opaque, plain design;
- No neon colors;
- No resemblance to existing non-marijuana consumer products;
- No designs, brands or names typically marketed to minors;
- No symbols or celebrities that are commonly used to market products to minors;
- No images of minors; or
- No words that refer to products that are commonly associated with minors or marketed by minors.
Comprehensive packaging requirements (cont’d):

• Products with multiple servings must say “INCLUDES MULTIPLE SERVINGS”;

• Consumer must be able to easily perform the division into single servings;

• Edible Marijuana Products in a solid form shall be easily and permanently scored to identify individual servings;

• If a product is unable to be easily and permanently scored to identify individual servings, the it shall be packaged in a single serving size;
Comprehensive packaging requirements (cont’d):

• Packaging for marijuana product beverages shall be packaged solely in a single serving size. Multiple serving marijuana product beverages are strictly prohibited for sale;

• Each single serving of an Edible MIP contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates that the single serving is a Marijuana Product;

• Serving size shall be determined by the processor but in no instance shall an individual serving size of any MARIJUANA PRODUCT contain more than five (5) milligrams of delta-nine-tetrahydrocannabinol (\(\Delta 9\)-THC).
Training

– Marijuana establishment agents must have 8 hours of training per year;
– 2 hours must be Responsible Vendor Training, mandatory for staff handling marijuana, voluntary for others
– Responsible Vendor Training Core Curriculum:
  • Discussion concerning marijuana’s effect on the human body. Training shall include:
    ➢ Marijuana’s physical effects based on type of marijuana product;
    ➢ Diversion prevention and prevention of sales to minors.
    ➢ Acceptable forms of Identification. Training shall include:
    ➢ Other key state laws and rules affecting owners, managers, and employees.
    ➢ Such other areas of training determined by the Commission to be included in a responsible vendor training program.
Inspections:
• Regularly scheduled;
• Unscheduled;
• Secret Shopper Program;
• Cooperation required.

Enforcement:
• Cease & Desist Order;
• Limitation of Sales;
• Quarantine;
• Suspension;
• Revocation;
• Fines.
Leadership Rating Criteria
Evaluated at time of renewal of license

Social Justice Leader
- 1% of the marijuana establishment’s gross revenue is donated to the technical assistance fund; and
- Licensee has conducted 50 hours of educational seminars targeted to residents of areas of disproportionate impact in one or more of the following: marijuana cultivation, marijuana product manufacturing, marijuana retailing, or marijuana business training.
Local Employment Leader

- 51% or more of the licensee’s employees have been a Massachusetts resident for 12 months or more, as determined by the Commission;

- 51% or more of the licensee’s executives have been a Massachusetts resident for 12 months or more, as determined by the Commission.
Compliance Leader

- All licensee employees have completed all required trainings for their positions within ninety days of hire;
- Licensee has not been issued a written deficiency statement;
- Licensee has not been the subject of a cease and desist order or a quarantine order;
- Licensee has not had its license suspended; and
- Licensee has met all timelines required by the Commission.
Energy and Environmental Leader

- The licensee has met or exceeded its energy and environmental impact goals for its registration period;
- The licensee has consistently documented and complied with best management practices for energy use, waste disposal and environmental impact;
- The licensee has documented that renewable energy credits representing 100% of the licensee’s energy usage have been retired; and
- The licensee has labeled all their products as being produced using 100% renewable energy.
Thank you!

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