

AN ORDINANCE TO ESTABLISH LICENSING AND REGULATION FOR ADULT USE MARIJUANA ESTABLISHMENTS

Purpose 1.001

In 2016 the voters of the Commonwealth and the City of Brockton enacted Question 4 and M.G.L. c. 94G (St.2016, c334) -- legalizing the use of cannabis by adults in Massachusetts -- as amended by the state legislature in 2016 (session law c. 31), and 2017 (session law c. 55) ("recreational marijuana law"). Pursuant to the recreational marijuana law, adults (over 21) in the Commonwealth may possess marijuana, consume it in private or state-licenses premises, and cultivate it for personal use. This law also authorizes adults in the Commonwealth to purchase cannabis from state-licensed retailers and enables adults to engage in state-licensed cannabis commerce, including cultivation, manufacturing (extracts and marijuana-infused product production), transportation between licensees, and retail sales.

WHEREAS, Massachusetts voters approved the regulation of the use and distribution of both recreational marijuana and medically prescribed marijuana;

WHEREAS, the prevention of the illegal sale and use of marijuana, particularly involving youth is a priority for both public health and public safety; and

WHEREAS, the Code of Massachusetts Regulations at 935 CMR 500.000 and M.G.L. c. 94G §3 allows for lawful local oversight and regulation, including local fee requirements.

Therefore, in furtherance of protecting, promoting and preserving the health, safety and wellbeing of all Brockton residents and pursuant to the authority granted to it pursuant to M.G.L. c. 94G §3, the City of Brockton enacts these regulations to ensure the safe operations of Marijuana Establishments and the sale of marijuana in the City of Brockton as follows:

Definitions 1.002

Unless otherwise indicated, terms used throughout this regulation shall be defined as they are in 935 CMR 500.000 and in General Laws c. 94G.

Fees 1.003

(1) Marijuana Establishment Application and License Fees.

(a) Each applicant for licensure as a Marijuana Establishment, shall pay to the City of Brockton a nonrefundable application fee and an annual license fee.

(b) Each application shall choose the tier at which it will be initially licensed.

(c) Application and Annual License Fee Schedule:

License Types	Application Fees	Annual License Fee
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Cultivator		
Tier 1: up to 5,000 square feet	\$200	\$1,250
Tier 2: 5,001 to 10,000 sq. ft.	\$400	\$2,500
Tier 3: 10,001 to 20,000 sq. ft.	\$600	\$5,000
Tier 4: 20,001 to 30,000 sq. ft.	\$600	\$7,500
Tier 5: 30,001 to 40,000 sq. ft.	\$600	\$10,000
Tier 6: 40,001 to 50,000 sq. ft.	\$600	\$12,500
Tier 7: 50,001 to 60,000 sq. ft.	\$600	\$15,000
Tier 8: 60,001 to 70,000 sq. ft.	\$600	\$17,500
Tier 9: 70,001 to 80,000 sq. ft.	\$600	\$20,000
Tier 10: 80,001 to 90,000 sq. ft.	\$600	\$22,500
Tier 11: 90,001 to 100,000 sq. ft.	\$600	\$25,000
Craft Marijuana Cooperative	Total fees for its canopy. If more than six locations, add \$200 per additional location.	Total fees for its canopy. If more than six locations, add \$1,250 per additional location.
Microbusiness	\$300	50% of all applicable fees
Manufacturing	\$300	\$5,000
Independent Testing Laboratory	\$300	\$5,000
Retail (brick and mortar)	\$300	\$5,000
Third-party Transporter	\$300	\$5,000
Existing Licensee Transporter	\$300	\$5,000
Research Laboratory	\$300	\$1,000

(d) The application fee for a RMD conversion pursuant to this Ordinance shall be \$450, and the annual license fee shall be the sum of the applicable cultivation, retail, and manufacturing license fees.

(e) Other fees:

Name Change Fee	\$100
Location Change Fee	50% of applicable License Fee
Change in Building Structure Fee	\$500
Change in Ownership or Control Fee	\$500

Marijuana Establishments 1.004

(1) General Requirements.

(a) A Marijuana Establishment is required to be registered to do business in the Commonwealth as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500.000 and to maintain the corporation in good standing with the Secretary of the Commonwealth and DOR.

(b) No licensee shall be granted more than three licenses in a particular class, except as otherwise specified in this Ordinance. An Independent Testing Laboratory or Standards Laboratory may not have a license in any other class. No individual or entity shall be a controlling person over more than three licenses in a particular class of license. No individual, corporation or other entity shall be in a position to control the decision-making of more than three licenses in a particular class of license. An individual, corporation or entity shall be determined to be in a position to control the decision-making of a Marijuana Establishment if the individual or entity possesses (i) actual control of more than 50% of the voting equity or has the power to appoint more than 50% of the directors; (ii) contract rights to control; or (iii) right to veto significant

events. The Brockton City Council shall receive notice of any such interests as part of the application pursuant to this Ordinance.

(c) An individual licensee shall be limited to 100,000, square feet of canopy per licensee, for a total of three licenses. A Craft Marijuana Cooperative is subject to this same limit.

(d) License Classes are as follows:

1. Marijuana Cultivator:
 - a. Tier 1: up to 5,000 square feet of canopy;
 - b. Tier 2: 5,001 to 10,000 square feet of canopy;
 - c. Tier 3: 10,001 to 20,000 square feet of canopy;
 - d. Tier 4: 20,001 to 30,000 square feet of canopy;
 - e. Tier 5: 30,001 to 40,000 square feet of canopy;
 - f. Tier 6: 40,001 to 50,000 square feet of canopy;
 - g. Tier 7: 50,001 to 60,000 square feet of canopy;
 - h. Tier 8: 60,001 to 70,000 square feet of canopy;
 - j. Tier 9: 70,001 to 80,000 square feet of canopy;
 - k. Tier 10: 80,001 to 90,000 square feet of canopy;
 - l. Tier 11: 90,001 to 100,000 square feet of canopy.
2. Craft Marijuana Cooperative;
3. Marijuana Product Manufacturer;
4. Marijuana Retailer;
5. Marijuana Research Facility;
6. Independent Testing Laboratory.
 - a. Standards Laboratory;
7. Marijuana Transporter:
 - a. Existing Licensing Transporter;
 - b. Third Party Transporter; and
8. Marijuana Microbusiness.

(e) A Marijuana Establishment shall operate all activities authorized by the license only at the address(es) registered with the Brockton City Council for that license.

(f) All marijuana establishment agents of the Marijuana Establishment must be registered with the Cannabis Commission pursuant to 935 CMR 500.030.

(g) Licenses shall not be granted to marijuana establishments located on tax exempt property or for which a payment in lieu of taxes (PILOT) has not been approved.

(h) The number of recreational retail licenses shall not exceed more than 20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws.

Application for Licensing of Marijuana Establishments 1.005

Intentionally omitted.

Application Requirements 1.006

(1) New Applicants. An applicant in any category of Marijuana Establishment shall file, in a form and manner specified by the Brockton City Council, an application for licensure as a Marijuana Establishment in the City of Brockton. The application shall consist of two packets: an Application of Intent packet and a Management and Operations Profile packet. The applicant may file individual packets separately or as a whole. The application will not be considered to be complete until the Brockton City Council determines each individual packet is complete and notifies the applicant that each packet is complete.

(a) Application of Intent. An applicant for licensure as a Marijuana Establishment in the City of Brockton shall submit the following as part of the Application of Intent:

1. Documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings;
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or licensee;
3. Documentation disclosing whether the Marijuana Establishments and its owners have past or present business interests in other states.
4. Documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. Information submitted shall be subject to review and verification by the Brockton City Council as a component of the application process.
Required documentation shall
 - a. The proper name of any individual or registered business name of any entity;
 - b. The street address, provided, however that the address shall not be a post office box;
 - c. The primary telephone number;
 - d. Electronic mail;
 - e. The amount and source of capital provided or promised;
 - f. A bank record dated within 30 days of the application verifying the existence of capital; and
 - g. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained.
5. Documentation of a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling and winding down of the Marijuana Establishment;
6. Identification of the proposed address for the license;
7. Documentation of a property interest in the proposed address.
Interest may be demonstrated by one of the following:
 - a. Clear legal title to the proposed site;
 - b. An option to purchase the proposed site;
 - c. A lease;
 - d. A legally enforceable agreement to give such title; or
 - e. Binding permission to use the premises.
8. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the Marijuana Establishment is located have executed a host community agreement;
9. Documentation that the applicant has conducted a community outreach meeting consistent with the Cannabis Commission's *Guidance for License Applicants on Community Outreach* within the six

months prior to the application. Documentation must include:

- a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city at least seven calendar days prior to the meeting;
- b. Copy of the meeting notice filed with the city clerk, the planning board, the contracting authority for the municipality, and local licensing authority for the adult use of marijuana, if applicable;
- c. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town;
- d. Information presented at the community outreach meeting, which shall include, but not be limited to:
 - i. The type(s) of Marijuana Establishment to be located at the proposed address;
 - ii. Information adequate to demonstrate that the location will be maintained securely;
 - iii. Steps to be taken by the Marijuana Establishment to prevent diversion to minors;
 - iv. A plan by the Marijuana Establishment to positively impact the community;
 - v. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and
 - vi. An attestation that community members were permitted to ask questions and receive answers from representatives of the Marijuana Establishment.

10. A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment which shall include, but not be limited to, the identification of any local licensing requirements for the adult use of marijuana;

11. A plan by the Marijuana Establishment to positively impact areas of disproportionate impact, as defined by the Brockton City Council;

12. The requisite non-refundable application fee; and

13. Any other information required by the Brockton City Council.

(b) Management and Operations Profile. Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Brockton City Council, which includes:

1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws;
2. A certificate of good standing from the Corporations Division of the Secretary of the Commonwealth;
3. A certificate of good standing or certificate of tax compliance from the DOR;
4. A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Brockton City Council that the applicant qualifies for licensure;
5. A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10);

6. A detailed summary of the business plan for the Marijuana Establishment;
7. A detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to provisions for:
 - a. security;
 - b. prevention of diversion;
 - c. storage of marijuana;
 - d. transportation of marijuana, if applicable to license type;
 - e. inventory procedures;
 - f. procedures for quality control and testing of product for potential contaminants, if applicable to license type;
 - g. personnel policies;
 - h. dispensing procedures;
 - i. record-keeping procedures;
 - j. maintenance of financial records; and
 - k. diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation, in the operation of the Marijuana Establishment.
8. A detailed description of qualifications and intended training(s) for marijuana establishment agents who will be employees; and
9. The Management and Operation Profile submitted in accordance with this subsection shall demonstrate compliance with the operational requirements set forth in 935 CMR 500.105 to 500.140, as applicable.
10. Any other information required by the Brockton City Council.

(c) Additional Specific Requirements.

1. In addition to the requirements set forth in above, applicants for a license to operate a Marijuana Establishment for retail in the City of Brockton shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining marijuana products from a licensed Marijuana Establishment(s).
2. In addition to the requirements set forth above, applicants for a license to operate Marijuana Establishment for cultivation in the City of Brockton shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of marijuana, including a detailed summary of the policies and procedures for cultivation.
3. In addition to the requirements set forth above, applicants for a license to operate a Marijuana Establishment for product manufacturing in the City of Brockton shall also provide, as part of the Management and Operation Profile packet:
 - a. a description of the types and forms of marijuana products that the Marijuana Establishment intends to produce;
 - b. the methods of production; and
 - c. a sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device.
4. In addition to the requirements set forth above, applicants for a license to operate a Marijuana Establishment as a Microbusiness in the City of Brockton shall also provide, as part of the Application of Intent, evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application.
5. In addition to the requirements set forth above, applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative in the City of Brockton shall also provide, as part of the Application of Intent:
 - a. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
 - b. Evidence of the cooperative's organization as a limited liability company or limited liability partnership, or a cooperative corporation under the laws of the Commonwealth;
 - c. Evidence that one member has filed a Schedule F tax income form within the past five years; and;

d. Evidence that the cooperative is organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.

(2) RMD Applicants.

(a) The application for an RMD priority applicant intending to operate an adult-use Marijuana Establishment shall consist of two packets: An Application of Intent packet and a Management and Operations Profile packet. Applicants for licensure under this Ordinance shall be required to provide the information required, to the extent that the required information does not qualify as specific information previously required, analyzed, approved and recognized by the DPH. An applicant may file individual packets separately or as a whole. An application will not be considered complete by the Brockton City Council until each individual packet is determined by the Brockton City Council to be complete and the applicant has been notified. Applicants shall be determined to have achieved accreditation status if, according to the records of the certifying agency, the applicant:

1. is a RMD that has received a Final Certificate of Registration and is selling marijuana or marijuana-infused products as of the date of application;
2. is a RMD that has received a Final Certificate of Registration, but is not selling marijuana or marijuana-infused products as of the date of application; or
3. is a RMD that has received a Provisional Certificate of Registration, but not a Final Certificate of Registration.

(b) Application of Intent Packet. An RMD Applicant for licensure as an adult-use Marijuana Establishment shall submit the following as part of the application of intent:

1. A list of all executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the adult-use Marijuana Establishment not currently included on the RMD license; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings;
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or licensee;
3. Documentation disclosing whether the Marijuana Establishments and its owners have past or present business interests in the other states;
4. Identification of the proposed address for the license;
5. Documentation of a property interest in the proposed address, if different than the location identified in the existing RMD license. Interest may be demonstrated by one of the following:
 - a. Clear legal title to the proposed site;
 - b. An option to purchase the proposed site;
 - c. A lease;
 - d. A legally enforceable agreement to give such title; or
 - e. Binding permission to use the premises.
6. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the adult-use Marijuana Establishment is located have executed a host-community agreement specific to the adult-use Marijuana Establishment;
7. Documentation that the applicant has conducted a community outreach meeting consistent with the Cannabis Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application. Documentation must include:
 - a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the adult-use Marijuana Establishment, that was published in a newspaper of general circulation

- in the city at least seven calendar days prior to the meeting;
- b. Copy of the meeting notice filed with the city clerk, the planning board, adult use of marijuana, if applicable;
- c. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city ;
- d. Information presented at the community outreach meeting, which must include, but not be limited to:
 - i. The type(s) of adult-use Marijuana Establishment to be located at the proposed address;
 - ii. If physically separate from the RMD location, information adequate to demonstrate that the adult-use Marijuana Establishment location will be maintained securely;
 - iii. Steps to be taken by the adult-use Marijuana Establishment to prevent diversion to minors;
 - iv. Information adequate to demonstrate that the location will not constitute a will not constitute a nuisance as defined by law; and
 - v. Attestation that community members were permitted to ask questions and receive answers from representatives of the adult-use Marijuana Establishment.
- 8. The requisite nonrefundable application fee;
- 9. If physically separate from the RMD location, a description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment which shall include, but not be limited to, the identification of any local licensing requirements for the adult use of marijuana;
- 10. A plan by the Marijuana Establishment to positively impact areas of disproportionate impact, as defined by the Brockton City Council; and
- 11. Any other information required by the Brockton City Council.

(c) Management and Operations Profile Packet. To be considered for licensure as an adult-use Marijuana Establishment, each existing RMD Applicant shall submit the following information:

- 1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws;
- 2. A certificate of good standing from the Corporations Division of the Secretary of the Commonwealth;
- 3. A certificate of good standing or certificate of tax compliance from the DOR;
- 4. The applicant's plan for separating medical and recreational operations, including:
 - a. Where operations are colocated, the applicant's plan shall include a component detailing the manner in which the applicant will ensure that operations remain separate at the point of sale; and
 - b. Where operations are colocated, the applicant's plan shall include a component detailing the manner in which Medical and Adult Use operations will be kept separate, including a plan to ensure that access to the Adult Use operation is restricted to those individuals 21 years of age or older;
- 5. A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the establishment will be ready to operate within the proposed timeline after notification by the Brockton City Council that the applicant qualifies for licensure;

6. A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10);
7. A detailed summary of the business plan for the adult-use Marijuana Establishment;
8. A detailed summary describing or, where colocated with the existing RMD, updating or modifying operating policies and procedures for an adult-use Marijuana Establishment which shall include, but not be limited to
 - a. Security;
 - b. Prevention of diversion;
 - c. Storage of marijuana;
 - d. Transportation of marijuana,
 - e. Inventory procedures,
 - f. Procedures for quality control and testing of product for potential contaminants,
 - g. Dispensing procedures;
 - h. Personnel policies, including background check policies;
 - i. Record-keeping procedures;
 - j. Procedures for the maintenance of financial records; and
 - k. Diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientations in the operation of the Marijuana Establishment.
9. A detailed description of qualifications and intended training(s) for marijuana establishment agents who will be employees;
10. The Management and Operation Profile submitted in accordance with this subsection shall demonstrate compliance with the operational requirements set forth in 935 CMR 500.105 to 500.140, as applicable.
11. Any other information required by the Brockton City Council.

(d) Additional License Requirements.

1. In addition to the requirements set forth above, applicants for a license to operate a Marijuana Establishment for retail in the City of Brockton shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining marijuana products from a licensed Marijuana Cultivator;
2. In addition to the requirements set forth above, applicants for a license to operate Marijuana Establishment for cultivation in the City of Brockton shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of marijuana, including a detailed summary of the policies and procedures for cultivation.
3. In addition to the requirements set forth in above, applicants for a license to operate Marijuana Establishment for product manufacturing in the City of Brockton shall also provide as part of the Management and Operation Profile packet:
 - a. A description of the types and forms of marijuana products that the Marijuana Establishment intends to produce;
 - b. The methods of production; and
 - c. A sample of any unique identifying mark that will appear on any product.
5. In addition to the requirements set forth above, applicants for a license to operate a Marijuana Establishment as a microbusiness in the City of Brockton shall also provide as part of the application of intent evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application.
6. In addition to the requirements set forth above, applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative in the City of Brockton shall also provide as part of the application of intent:
 - a. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
 - b. Evidence of the cooperative's organization as a limited liability company or limited liability partnership, or a cooperative corporation under the laws of the Commonwealth;

- c. Evidence that one member has filed a Schedule F tax income form within the past five years; and;
- d. Evidence that the cooperative is organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.

Action on Applications 1.007

(1) Action on Each Packet. The Brockton City Council shall grant licenses with the goal of ensuring that the needs of the Commonwealth are met with regard to access, quality, and community safety.

- (a) Packets comprising the license application shall be evaluated based on the Applicant's:
 - 1. demonstrated compliance with the laws and regulations of the Commonwealth;
 - 2. demonstrated compliance with this Ordinance, or any City of Brockton order or City Ordinance;
 - 3. suitability for licensure based on the provisions of 935 CMR 500.101(1), 500.800 and 500.801; and
 - 4. evaluation of the thoroughness of the applicants' responses to the required criteria. The Brockton City Council shall consider each packet submitted by an applicant on a rolling basis.
- (b) Failure of the applicant to adequately address all required items in its application in the time required herein by the Brockton City Council will result in evaluation of the application as submitted. Nothing in herein is intended to confer a property or other right or interest entitling an applicant to a meeting before an application may be denied.

(2) Action on Completed Applications.

- (a) Priority application review will be granted to Existing RMD Applicants as defined in 935 CMR 500.101(2)(a).
- (b) The Brockton City Council shall review applications from priority applicants on an alternating basis, beginning with the first-in-time-application received from an RMD Applicant. Where no completed application is available for review by the Brockton City Council from either of the priority groups defined in 935 CMR 500.102(2)(a), the Brockton City Council shall review the next complete application from either group.
- (c) The Brockton City Council shall grant or deny a provisional license not later than 90 days following notification to the applicant that all required packets are considered complete. Applicants shall be notified in writing that:
 - 1. the applicant shall receive a provisional license which may be subject to further conditions as determined by the Brockton City Council; or
 - 2. the applicant has been denied a license. Denial shall include a statement of the reasons for the denial.
- (d) Failure of the applicant to complete the application process within the time specified by the Brockton City Council in the application instructions shall be grounds for denial of a license.

Licensure and Renewal 1.008

(1) License.

Licenses shall be subject to reasonable conditions specified by the Brockton City Council, if any.

- (a) No person shall operate a Marijuana Establishment without a final license issued by the Brockton City Council.
- (b) A license may not be assigned or transferred without prior Brockton City Council approval.

(c) A license shall be immediately void if the Marijuana Establishment ceases to operate or if, without the permission of the Brockton City Council, it relocates.

(d) Acceptance of a license constitutes an agreement by the Marijuana Establishment that it will adhere to the practices, policies, and procedures that are described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Brockton City Council as part of registration.

(e) The Marijuana Establishment shall post the final license in a conspicuous location on the premises at each Brockton City Council-approved location.

(f) The Marijuana Establishment shall conduct all activities authorized by 935 CMR 500.000 at the address(es) identified on the final license issued by the Brockton City Council.

(3) The Marijuana Establishment must be operational within the time indicated in 935 CMR 500.101(1)(c)4 or 935 CMR 500.101(2)(e)(5) or as otherwise amended through the application process and approved by the Brockton City Council through the issuance of a final license.

(4) Expiration and Renewal of Registration. The Marijuana Establishment's license, as applicable, shall expire one year after the date of issuance of the license and annually thereafter, and may be renewed as follows unless an action has been taken based upon the grounds set forth in this Ordinance:

(a) No later than 60 calendar days prior to the expiration date, a Marijuana Establishment shall submit a completed renewal application to the Brockton City Council in a form and manner determined by the Brockton City Council, as well as the required fee. A licensee shall submit as a component of the renewal application a report or other information demonstrating the licensee's efforts to comply with the plans required under 935 CMR 500.101(1) and (2), including 935 CMR 500.101(1)(a)11 and (1)(c)7k or 935 CMR 500.101(2)(b)(10) and (2)(e)(7), as applicable, and with this Ordinance, the Host Agreement, the license, or any City of Brockton order or City Ordinance.

(b) The Marijuana Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.

(c) The License Commission after notifying the Brockton City Council shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a Marijuana Establishment to a licensee in good that has filed any tax returns required pursuant to M.G.L. c. 64N.

(d) At the time of renewal, licensees shall make available an accounting of the financial benefits accruing to the municipality as the result of the host community agreement with the licensee. The Brockton City Council will make this information available on its website. Municipalities are encouraged to share cost-benefit information with licensees and License Commission.

Notification and Approval of Changes 1.009

(1) Prior to making the following changes, the Marijuana Establishment shall submit a request for such change to the Brockton City Council and pay the appropriate fee. No such change shall be permitted until approved by the Brockton City Council. Failure to obtain approval of such changes may result in a license being suspended, revoked, or deemed void.

(a) Location Change. Prior to changing its location, the Marijuana Establishments shall submit a request for such change to the Brockton City Council.

(b) Ownership or Control Change.

1. Prior to any change in ownership, where an owner acquires or increases its ownership to 10% or more of the equity, the Marijuana Establishment shall submit a request for such change to the Brockton City Council.

2. Prior to any change in control, where an individual, corporation or entity shall be determined to be in a position to control the decision-making of a Marijuana Establishment, the Marijuana Establishment shall submit a request for such change to the Brockton City Council. This occurs if the individual, corporation or entity possesses (i) actual control of more than 50% of the voting equity or has the power to appoint more than 50% of the directors; (ii) contract rights to control; or (iii) right to veto significant events.

(c) Structural Change. Prior to any modification, remodeling, expansion, reduction or other physical, non-cosmetic alteration of the Marijuana Establishment, the establishment shall submit a request for such change to the Brockton City Council.

(d) Name Change. Prior to changing its name, the Marijuana Establishment shall submit a request for such change to the Brockton City Council.

(2) The Marijuana Establishment shall keep current all information required by 935 CMR 500.000 or otherwise required by the Brockton City Council. The Marijuana Establishment shall report any changes in or additions to the content of the information contained in any document to the Brockton City Council within five business days after such change or addition.

General Operational Requirements for Marijuana Establishments 1.010

- (1) State Requirements. Every Marijuana Establishment shall comport to the General Operational Requirements for Marijuana Establishments listed in 935 CMR 500.105.
- (2) Solid Waste. All solid waste must be stored internal to the structure until it is ready for disposal.

Security Requirements for Marijuana Establishments 1.011

- (1) General Requirements. A Marijuana Establishment shall comport to the Security Requirements for Marijuana Establishment listed in 935 CMR 500.110.
- (2) Video Cameras. The Brockton Police Department shall have access to all video recordings.

Inspections and Compliance 1.012

- (1) The License Commission or its agents may inspect a Marijuana Establishment and affiliated vehicles at any time without prior notice in order to determine the Marijuana Establishment's compliance with the act and 935 CMR 500.000, this Ordinance, the Host Agreement, the license, and with any City of Brockton order or City Ordinance. All areas of a Marijuana Establishment, all marijuana establishment agents and activities, and all records are subject to such inspection. Acceptance of a license from the City of Brockton by a Marijuana Establishment constitutes consent for such inspection.
- (2) A Marijuana Establishment shall immediately upon request make available to

the Brockton City Council all information that may be relevant to a License Commission inspection, or an investigation of any incident or complaint.

(3) A Marijuana Establishment shall make all reasonable efforts to facilitate the License Commission's inspection, or investigation of any incident or complaint, including the taking of samples, photographs, video or other recordings by the Commission or its agents, and to facilitate the License Commission's interviews of marijuana establishment agents.

(4) An inspection or other investigation may be made prior to the issuance of a license or renewal of registration. Additional inspections may be made whenever the License Commission deems it necessary for the enforcement of the act and 935 CMR 500.000, this Ordinance, the Host Agreement, the license and with any City of Brockton order or City Ordinance.

(5) During an inspection, the License Commission may direct a Marijuana Establishment to test marijuana for contaminants as specified by the License Commission, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of pesticides not approved for use on marijuana by the Massachusetts Department of Agricultural Resources.

Deficiency Statements 1.013

After an inspection in which a violation of the act or 935 CMR 500.000, this Ordinance, the Host Agreement, the license, or a violation of a City of Brockton order or Ordinance, is observed or a violation is otherwise determined to have occurred, the License Commission shall issue a deficiency statement citing every violation identified, a copy to the City Council and a copy of which shall be left with or sent to the Marijuana Establishment.

Plans of Correction 1.014

(1) A Marijuana Establishment shall submit to the License Commission and copy the Brockton City Council, a written plan of correction for any violations cited in the deficiency statement issued pursuant to Deficiency Statements 1.013 within ten business days after receipt of the statement.

(2) Every plan shall state, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance with 935 CMR 500.000, this Ordinance, the Host Agreement, the license, the City of Brockton order or City Ordinance will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.

(3) The License Commission after notification of the Brockton City Council, shall review the plan of correction for compliance with the requirements of the act and 935 CMR 500.000, this Ordinance the Host Agreement, the license, the City of Brockton order or City Ordinance and shall notify the City Council and the Marijuana Establishment of either the acceptance or rejection of the plan.

(4) An unacceptable plan must be amended and resubmitted within five business days after receipt of such notice.

Marijuana Establishments: Limitation of Sales 1.015

(1) If the License Commission determines that a Marijuana Establishment does not substantially comply with applicable provisions of the act or 935 CMR 500.000, this Ordinance, the Host Agreement, the license, the City of Brockton order or City Ordinance, the License Commission after notification of the Brockton City Council, may order that the Marijuana Establishment shall not sell marijuana, after a date specified.

(2) The License Commission shall not make such a determination until notification of the Brockton City Council and notification of a Marijuana Establishment has been notified that the establishment does not substantially comply with applicable provisions of the act and 935 CMR 500.000, this Ordinance, the Host Agreement, the license, the City of Brockton order or City Ordinance that an order to limit sales is contemplated, and that the establishment has a reasonable opportunity to correct the deficiencies.

(3) An order that a Marijuana Establishment shall not sell marijuana pursuant to the above may be rescinded when the Brockton City Council finds that the establishment is in substantial compliance with the applicable provisions of 935 CMR 500.000, this Ordinance, the Host Agreement, the license, the City of Brockton order or City Ordinance.

Summary Cease and Desist Order and Quarantine Order 1.016

(1) A summary cease and desist order or quarantine order may be imposed by the License Commission after notification of the Brockton City Council, prior to a hearing in order to immediately stop or restrict operations by a Marijuana Establishment to protect the public health, safety, or welfare. The License Commission after notification of the City Council may rescind or amend a summary cease and desist order or quarantine order.

- (a) If based on inspection or other evidence, the License Commission after notification of the Brockton City Council determines that a Marijuana Establishment poses an immediate or serious threat to the public health, safety, or welfare, the License Commission may:
1. Issue a cease and desist order or quarantine order which requires cessation of any or all Marijuana Establishment operations or the sale or use of marijuana products sold by the establishment; or
 2. Issue a cease and desist order or quarantine order, which places restrictions on any or all Marijuana Establishment operations to the extent necessary to avert a continued threat, pending final investigation results.

(2) On receipt of notice of the order, the licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the License Commission, post notice at the Marijuana Establishment or other notice in a form and manner determined by the License Commission.

(3) If a hearing is requested in writing within 14 calendar days after the effective date stated in the order, a licensee shall be afforded a hearing on the order in accordance with this Ordinance.

(4) If, after further investigation and notification of the City Council, the License Commission determines that there are grounds to suspend or revoke a Marijuana Establishment's license, it may also issue an order to show cause why the license should not be suspended or revoked or take any other administrative action it deems necessary to protect the public health, safety, or welfare.

(5) The requirements of the cease and desist or quarantine order shall remain in effect until the Brockton City Council rescinds or amends the order until there is a final decision on the merits of the Brockton City Council order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or withdrawn by the Brockton City Council or until such time as is otherwise established in this Ordinance.

Summary Suspension Order 1.017

- (1) The License Commission after notification of the Brockton City Council,

may summarily suspend any license issued pursuant to this Ordinance, pending further proceedings for denial of renewal or revocation of a registration or license, whenever the License Commission finds that continued licensure poses an imminent danger to the public health, safety, or welfare. The License Commission after notification of the Brockton City Council, may rescind or amend the suspension order.

- (a) If based on inspection or other evidence, the License Commission after notification of the Brockton City Council, determines that a Marijuana Establishment poses an immediate or serious threat to the public health, safety, or welfare, the License Commission may:
 1. Issue a summary suspension order, which requires cessation of any or all Marijuana Establishment operations or the sale or use of marijuana products sold by the establishment; or
 2. Issue a summary suspension order, which places restrictions on any or all Marijuana Establishment operations to the extent necessary to avert a continued threat, pending final investigation results.
- (2) On receipt of notice of the suspension order, the licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the License Commission, post notice at the Marijuana Establishment or other notice in a form and manner ordered by the Brockton City Council.
- (3) If a hearing is requested in writing within 14 calendar days after the effective date stated in the order, a licensee shall be afforded a hearing on the suspension order in accordance with this Ordinance.
- (4) If after further investigation, the Brockton City Council determines that there are grounds to suspend or revoke a Marijuana Establishment's license, it may also issue an order to show cause why the license should not be suspended or revoked or take any other administrative action it deems necessary to protect the public health, safety or welfare.
- (5) The requirements of the summary suspension order shall remain in effect until the Brockton City Council rescinds or amends the order until there is a final decision on the merits of the Brockton City Council order to show cause, including judicial review of the order, unless the suspension order is vacated or modified by a court of competent jurisdiction or withdrawn by the Brockton City Council or until such time as is otherwise established in this Ordinance.

Marijuana Establishment: Grounds for Denial of Initial Application for License 1.018

Each of the following, in and of itself, constitutes full and adequate grounds for denying an initial application for a Marijuana Establishment license.

- (1) Information provided by the applicant was misleading, incorrect, false, or fraudulent;
- (2) The application indicates an inability to maintain and operate a Marijuana Establishment in compliance with the requirements of the act, 935 CMR 500.105 and 935 CMR 500.110 based on the submission of information required by 935 CMR 500.101(1) and (2), or this Ordinance;
- (3) The applicant has been determined to be either not suitable pursuant to any one or more of the factors listed in 935 CMR 500.800 and 500.801 or this Ordinance;

- (4) The applicant failed to complete the application process within the time required by the Brockton City Council;
- (5) Members or executives of the Marijuana Establishment were members or executives of a Marijuana Establishment that had its license revoked or denied renewal in the Commonwealth or another jurisdiction; or
- (6) Any other ground that serves the purposes of the act or 935 CMR 500.000, this Ordinance, the Host Agreement, the license, any City of Brockton order or City Ordinance.

Void Marijuana Establishment License 1.019

A Marijuana Establishment license is void if the Marijuana Establishment ceases to operate or transfers its location without Brockton City Council approval.

Marijuana Establishment License: Grounds for Denial of Renewal Applications,

Suspension and Revocation 1.020

Each of the following, in and of itself, constitutes full and adequate grounds for denying the renewal application for a Marijuana Establishment license or suspending or revoking the license of a Marijuana Establishment.

- (1) The Marijuana Establishment is not operational within the time projected in the license application or the time otherwise approved by the Brockton City Council.
- (2) Information provided by the Marijuana Establishment was materially inaccurate, incomplete, or fraudulent.
- (3) The Marijuana Establishment has failed to comply with any requirement of the act or 935 CMR 500.000, or any applicable law or regulation, including laws and regulations of the Commonwealth relating to taxes, child support, workers' compensation, and professional and commercial insurance coverage.
- (4) The Marijuana Establishment has failed to submit a plan of correction as required or to implement the plan as submitted pursuant to this Ordinance.
- (5) The Marijuana Establishment has assigned or attempted to assign its license to another entity without prior approval of the Brockton City Council.
- (6) There has been a lack of responsible operation of the Marijuana Establishment, as shown by, but not limited to, one or more of the following:
 - (a) failure to maintain the Marijuana Establishment in a clean, orderly, and sanitary fashion;
 - (b) permitting a marijuana establishment agent to use a registration card belonging to a different person;
 - (c) repeated sales of marijuana products to individuals younger than 21 years old, unless in each instance, the marijuana establishment agent reasonably relied upon validly issued government identification in compliance with M.G.L. c. 94G, § 9(b);
 - (d) repeated failure to verify the age of an individual prior to permitting that individual on the premises of a Marijuana Establishment or making sales of marijuana products to that individual; or
 - (e) other incompetent or negligent operation.
- (7) The financial management of the Marijuana Establishment has resulted in the filing of a petition for bankruptcy or receivership related to the financial solvency of the Marijuana Establishment.

(8) An executive or member of a Marijuana Establishment has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a Marijuana Establishment in another jurisdiction including, but not limited to: failure to correct deficiencies, a limitation upon or a suspension, revocation, or refusal to grant or renew a registration or license to operate.

(9) A marijuana establishment agent has a history of criminal conduct as evidenced by any criminal proceedings against such individual or marijuana facilities in which such individual either owned shares of stock or served as a corporate officer, and which resulted in conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts.

(10) An executive or member of a Marijuana Establishment has committed, permitted, aided, or abetted any illegal practices in the operation of any Marijuana Establishment.

(11) The Marijuana Establishment has failed to cooperate or give information to a law enforcement official acting within his or her lawful jurisdiction related to any matter arising out of conduct at any Marijuana Establishment.

(12) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare the public.

(13) The conduct or practices of the Marijuana Establishment demonstrate a lack of suitability as specified in 935 CMR 500.800 and 500.801 or this Ordinance.

(14) Any other ground that serves the purposes of the act or 935 CMR 500.000, this Ordinance, the Host Agreement, the license, or any City of Brockton order or City Ordinance.

Hearings and Appeals of Actions on Licenses 1.021

(1) Notice of Violations. The License Commission after notification of the Brockton City Council, shall send written notice of the alleged violation(s) to a licensee. The written notice shall provide the licensee with a statement of the grounds for the action and of the right to request a hearing and the time period for such request.

(2) Hearings.

(a) Generally. All hearings held pursuant to this Ordinance shall be conducted in accordance with M.G.L. c. 30A and 801 CMR 1.02: *Informal/Fair Hearing Rules* and shall be conducted by a Hearing Officer determined by the Brockton City Council.

(b) Hearings on Summary Cease and Desist Orders or Quarantine Orders.

1. Upon written request filed with the Brockton City Council, a licensee shall be afforded a hearing on a summary cease and desist order or quarantine order. The hearing request shall be filed no later than 14 days after the effective date of the order issued pursuant to this Ordinance.
2. The Brockton City Council shall hold a hearing in a timely manner after receipt of a written request for a hearing.
3. If the Brockton City Council proves by a preponderance of the evidence that there existed immediately prior to, or at the time of the order, an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer may extend the order.
4. If the licensee does not request a hearing, the order shall remain in effect until one or more of the following events has occurred;
 - a. The Brockton City Council rescinds the order after a determination that the conditions at issue in the order no longer exist;
 - b. There is a final decision on the merits of a Brockton City Council order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or

withdrawn by the Brockton City Council; or

c. There is a final decision on the merits of a Brockton City Council decision issued after the order, including judicial review of the decision, unless the decision is reversed or modified by a court of competent jurisdiction.

(c) Hearings on Summary Suspension Orders.

1. Upon written request filed with the Brockton City Council, a licensee shall be afforded a hearing on a summary suspension order. The hearing request shall be filed no later than 14 days after the effective date of the order issued pursuant to this Ordinance.

2. The Brockton City Council shall hold a hearing in a timely manner after receipt of a written request for a hearing.

3. If the Brockton City Council proves by a preponderance of the evidence that there existed immediately prior to, or at the time of the order, an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer may extend the order.

4. If the licensee does not request a hearing, the order shall remain in effect until one or more of the following events has occurred;

a. The Brockton City Council rescinds the order after a determination that the conditions at issue in the order no longer exist;

b. There is a final decision on the merits of a Brockton City Council order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or withdrawn by the Brockton City Council; or

c. There is a final decision on the merits of a Brockton City Council decision issued after the order, including judicial review of the decision, unless the decision is reversed or modified by a court of competent jurisdiction.

(d) Hearings on Other Actions. Notwithstanding the above, for all other actions against a registration or license the Brockton City Council through the License Commission shall provide written notice and shall provide a hearing, if a hearing is requested in writing, within 21 calendar days after the effective date stated in the notice, prior to:

1. the suspension, revocation, denial of a renewal application, fine, or other action taken with regards to a registration card issued to a marijuana establishment agent or marijuana-related business agent; or

2. the suspension or revocation denial of a renewal application, fine or other action taken with regards to license issued to operate as a Marijuana Establishment;

(e) Final Decision. The License Commission after notification of the Brockton City Council, shall bear the burden of proving the violation of law. All decisions of the Hearing Officer shall be in writing. The decision of the Hearing Officer shall be considered to be a final decision by the Brockton City Council.

(f) Appeals. Any person aggrieved by a determination of the Brockton City Council may appeal the decision to the Superior Court in accordance with M.G. L. c. 30A, § 14.

(g) Timeliness. The right to a hearing shall be waived if a hearing permitted under this Ordinance is not requested within the specified time.

Fines 1.022

(1) The License Commission, after notification of the Brockton City Council may issue an order to a licensee to show cause as to why a fine or other financial penalty against a licensee should not be imposed for any acts or omissions determined to be in violation of any provision of the local marijuana laws, including this Ordinance,

the Host Agreement, the license, and any City of Brockton order or City Ordinance.

- (a) Each such order:
 1. shall be in writing;
 2. shall describe with particularity the nature of the violation, including a reference to the law or regulation determined to have been violated;
 3. may contain an assessment of an administrative fine of up to \$25,000, or an order of abatement fixing a reasonable time for abatement of the violation or both;
 4. shall be served personally or by certified mail; and
 5. shall inform the licensee or person that he or she may request a hearing in accordance with this Ordinance.

(b) Failure to pay a fine within 30 calendar days of the date of the assessment, unless the order is appealed pursuant to this Ordinance, may result in further action being taken by the License Commission after notification of the Brockton City Council, including, but not limited to, suspension or revocation of a license. If an order is not appealed and the fine is not paid within 14 calendar days, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine.

(c) Nothing in this Ordinance shall limit the License Commission from issuing an order to suspend or revoke a license or taken any other administrative action without Brockton City Council notification, and allowed by law.

(d) An administrative fine up to \$25,000 may be assessed for each violation, but the decision to impose any fine shall identify the factors considered by the License Commission after notification of the Brockton City Council, in setting the amount of the fine. Each day during which a violation continues may constitute a separate offense, and each provision of the local marijuana laws, including this Ordinance, the Host Agreement, the license and any City of Brockton order or City Ordinance, that is violated may constitute a separate offense.

- (e) The Brockton City Council, in determining the amount of sanctions to impose may consider mitigating circumstances including, but not limited to:
1. the licensee's good faith efforts to avoid a violation;
 2. the licensee's cooperation in the investigation;
 3. the licensee's willingness to accept responsibility;
 4. the licensee's compliance with the training requirements pursuant to 935 CMR 500.105(2)(B).

(2) All fees, fines, and penalties collected by or on behalf of the Commission, shall be made payable to the City of Brockton.

Non-Conflict with Other Laws 1.023

- (1) Nothing in this Ordinance shall be construed to limit the applicability of other law as it pertains to the rights of landlords, employers, law enforcement authorities, or regulatory agencies, except as otherwise provided in 935 CMR 500.000.
- (2) Nothing in this Ordinance:
 - (a) allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana;
 - (b) requires the violation of federal law or purports to give immunity under federal law; or
 - (a) poses an obstacle to federal enforcement of federal law.

Severability 1.024

The provisions of this Ordinance are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

REGULATORY AUTHORITY

935 CMR 500.000: St. 2016, c. 334, as amended by St. 2017, c. 55.

Councilor Moises Rodrigues

Councilor Robert Sullivan