

Amendment

370

In City Council June 25, 2018

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 Massachusetts General Laws chapter (“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-licensed 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 the City 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 M.G.L. 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
---------------	------------------	--------------------

of a Marijuana Establishment, the Marijuana Establishment shall submit a request for such change to the License Commission with notice 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 pursuant to Brockton Zoning Ordinance Section 27-24.4 Adult use of marijuana and to the License Commission with notice 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 License Commission with notice 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 License Commission with notice to the Brockton City Council within five (5) 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) Local Requirements. Every Marijuana Establishment shall comport to the Operational Requirements and Conditions for Marijuana Establishments listed in Brockton Zoning Ordinance Section 27-24.4 Adult use of marijuana.

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.
- (3) Local Requirements. Every Marijuana Establishment shall comport to the Security Requirements for Marijuana Establishments listed in Brockton Zoning Ordinance Section 27-24.4 Adult use of marijuana.

Inspections and Compliance 1.012

- (1) The City and its agents, including representatives from the License Commission, Building Department, Board of Health, Fire Departments, and Police Departments, may conduct unannounced unscheduled, periodic inspections of the premises of any Marijuana Establishment to determine the Marijuana Establishment's compliance with 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, the City and its agents, including representatives from the License Commission, Building Department, Board of Health, Fire Departments, and Police Departments all information that may be relevant to any inspection, or

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
Microbusiness	\$300	50% of all applicable
Manufacturing	\$500	\$5,000
Independent Testing Laboratory	\$500	\$5,000
Retail (brick and mortar)	\$500	\$5,000
Third-party Transporter	\$500	\$5,000
Existing Licensee Transporter	\$500	\$5,000
Research Laboratory	\$500	\$1,000

(d) The application fee for a Registered Marijuana Dispensary (“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 as outlined in the table above in Section 1.003(c).

(e) Other fees:

Name Change Fee	\$100
Location Change Fee	50% of applicable
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 Department of Revenue (“DOR”).

(b) No licensee shall be granted more than one (1) license in a particular class, except as otherwise specified in this Ordinance.

(c) Intentionally omitted.

(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; or
 - 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 City of Brockton, by and through the offices of the Brockton City Clerk, for that license.

(f) Intentionally omitted.

(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 twenty (20) percent of the number of licenses issued within the City of Brockton for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138.

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 four (4) packets: a copy of the Cannabis Control Commission ("CCC") Application of Intent packet, a copy of the CCC Management and Operations Profile packet, a copy of CCC Background Check Application and Confirmation, and a copy of the Community Host Agreement. The application shall also include any application(s) for Site Plan Review and/or Special Permit as required under Brockton Zoning Ordinance Section 27-24.4 Adult Use of Marijuana. The application shall also include certification of Site Plan Approval (all license categories) and a Special Permit (for Marijuana Retail operations only). The applicant may file individual packets separately or as a whole. The application will not be considered to be complete until the City Clerk's Office determines each individual packet is complete and notifies the applicant that each packet is complete. The application shall include the requisite non-refundable application fee and fifteen (15) copies of all documents submitted.
- (2) Additional Requirements. Particular types of Marijuana Establishments that require additional specific requirements to be submitted to the CCC pursuant to 935 CMR 500.101 shall also be submitted to the Brockton City Council.

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 and the City of Brockton 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) Nothing contained 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) Intentionally omitted.

(c) The Brockton City Council shall grant or deny a license not later than ninety (90) days following notification to the applicant that the application is are considered complete. Applicants shall be notified in writing that:

1. the applicant shall receive a license which may be subject to further conditions as determined by the Brockton City Council; or
2. the applicant has been denied a license.

(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, Planning Board, and Zoning Board of Appeals, 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, ordinances, regulations, and any conditions imposed by the Brockton City Council as part of the license.

(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.

- (2) 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.
- (3) License Commission. For the purposes of this Ordinance, the License Commission shall have authority and responsibility for granting renewals, suspending operations and/or sales, issuing summary cease and desist orders, issuing summary suspension orders, complete inspections, enforcing rules, regulations, local ordinances, and state laws pertaining to Marijuana Establishment licenses.
- (4) Expiration and Renewal of Registration. The Marijuana Establishment's license, as applicable, shall expire one (1) 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 sixty (60) calendar days prior to the expiration date, a Marijuana Establishment shall submit a completed renewal application to License Commission with a copy to the Brockton City Council in a form and manner determined by the Brockton City Council, along with the required license renewal 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 thirty (30) days of receipt of a renewal application and renewal license fee from a Marijuana Establishment to a licensee in good standing 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 City of Brockton as the result of the Host Community Agreement with the licensee. The Brockton City Council will make this information available on its website.

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 License Commission with notice 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 License Commission with notice 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 License Commission with notice 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

370

investigation of any incident or complaint.

- (3) A Marijuana Establishment shall make all reasonable efforts to facilitate the inspection, or investigation of any incident or complaint, including the taking of samples, photographs, video or other recordings by the City or its agents, and to facilitate the any 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 Brockton City Council, the City and its agents, including, but not limited to, representatives from the License Commission, Building Department, Board of Health, Fire Departments, and/or Police Departments deems it necessary for the enforcement of 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 or Board of Health may direct a Marijuana Establishment to test marijuana for contaminants, 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 shall be sent to the Brockton City Council and a copy of 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 with a copy to 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 (10) 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) Any plan deemed unacceptable by the License Commission or Brockton City Council must be amended and resubmitted within five (5) 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, a City of Brockton order or other 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 a Marijuana Establishment has been notified that the establishment does not substantially comply with applicable provisions of any state law, 935 CMR 500.000, this Ordinance, the Host Agreement, the license, a City of Brockton order, or other City Ordinance that an order to limit sales is contemplated, and that the establishment has a reasonable opportunity to correct the deficiencies. A copy of this notification shall be sent to the Brockton City Council.
- (3) An order that a Marijuana Establishment shall not sell marijuana pursuant to the above may be rescinded when the License Commission 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 other City Ordinance. A copy of the findings shall be sent to the Brockton City Council.

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 with 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 with 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 with 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 fourteen (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) The requirements of the cease and desist or quarantine order shall remain in effect until the License Commission with notification of the Brockton City Council rescinds or amends the order until there is a final decision on the merits of the 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 License Commission or until such time as is otherwise established in this Ordinance.
- (5) If, after further investigation and notification to the Brockton City Council, the License Commission determines that there are grounds to suspend or revoke a Marijuana Establishment's license, the Brockton City Council 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.

Summary Suspension Order 1.017

- (1) The License Commission with notification to the Brockton City Council, may summarily suspend any license issued pursuant to this Ordinance, pending further

370

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 with notification to the Brockton City Council, may rescind or amend the suspension order.

(a) If based on inspection or other evidence, the License determines that a Marijuana Establishment poses an immediate or serious threat to the public health, safety, or welfare, the License Commission may with notification to the Brockton City Council:

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 fourteen (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) The requirements of the summary suspension order shall remain in effect until the License Commission with notification of the Brockton City Council rescinds or amends the order until there is a final decision on the merits of the License Commission 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 License Commission with notification to the Brockton City Council or until such time as is otherwise established in this Ordinance.
- (5) If, after further investigation and notification to the Brockton City Council, the License Commission determines that there are grounds to suspend or revoke a Marijuana Establishment's license, the Brockton City Council 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.

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;

- (6) The Applicant does not have provisional or final approval of its license by the CCC; or
- (7) 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 state or local 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 with notification to 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) Intentionally omitted.
 - (b) Hearings on Summary Cease and Desist Orders or Quarantine Orders.
 - 1. Upon written request filed with the License Commission with a copy to 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 fourteen (14) days after the effective date of the order issued pursuant to this Ordinance.
 - 2. The shall hold a hearing in a timely manner after receipt of a written request for a hearing.
 - 3. If, after reasonable notice and hearing, the License Commission finds 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 License Commission 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 License Commission with notification to 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 License Commission 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 License Commission with a copy to 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 fourteen (14) days after the effective date of the order issued pursuant to this Ordinance.

2. The License Commission shall hold a hearing in a timely manner after receipt of a written request for a hearing.

3. If after reasonable notice and hearing, the License Commission finds 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 License Commission 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 License Commission with notification to the 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 License Commission 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 twenty-one (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, revocation, or denial of a renewal application, fine or other action taken with regards to license issued to operate as a Marijuana Establishment.

(e) Intentionally omitted.

(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) Intentionally omitted.

(b) Failure to pay a fine within thirty (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 fourteen (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) Intentionally omitted.
 - (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) Intentionally omitted.
- (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

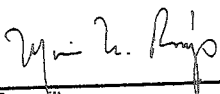
- (1) Intentionally omitted.
- (2) Nothing in this Ordinance:
 - (a) allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana;
 - (b) requires the violation of federal law or purports to give immunity under federal law; or
 - (c) poses an obstacle to federal enforcement 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

Councilor Moises Rodrigues



Councilor

Councilor Robert Sullivan