



935 CMR 500.000

Regulations for the Adult Use of Marijuana

Safe ✧ Equitable ✧ Sustainable

Regulations, 935 CMR 500 Licensing Process

April 2

Begin Certification
Applications for
Priority Applicants:

- ❖ Registered
Marijuana
Dispensaries
- ❖ Economic
Empowerment
Applicants

April 17

Begin Accepting
Applications from
certified Priority
Applicants

May 1

Open Applications
for:

- ❖ Cultivation
- ❖ Microbusiness
- ❖ Craft
Cooperatives
- ❖ Independent
Testing Labs

June 1

Open Applications
for:

- ❖ Retail
- ❖ Product
Manufacturers
- ❖ Transport

Draft Regulations, 935 CMR 500

Licensing Process

Application of Intent

- Incorporation
- Capital
- Bond
- Property Interest
- *Municipal Information*
- Positive Impact on DIA

Background Check

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

Management and Operations Profile

- Certificate of Good Standing with SoS and DOR
- Business Plan
- Operating Policies and Procedures
- Training Plan

Draft Regulations, 935 CMR 500 Local Control

Zoning bylaws or ordinances are not permitted to operate to **prevent** the conversion of an RMD registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity.

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

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

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

Draft Regulations, 935 CMR 500

Local Control

A Moratorium of a Reasonable Length of Time is Permitted.

- ❖ Although municipalities are prohibited from using a zoning bylaw or ordinance to *prevent* the conversion of a registered marijuana dispensary, the Commission does not interpret the word ***prevent*** to prohibit the municipality from imposing a moratorium, a ***temporary*** delay passed as a zoning amendment to allow a municipality to engage in a planning process to determine how best to zone marijuana establishments for adult use in its community.
- ❖ The Commission will interpret the reasonableness of the length of a moratorium in a manner consistent with the opinions issued by the Attorney General's Office in reviewing moratoria proposed by communities.
- ❖ When the moratorium expires, the Commission cautions local officials from amending their zoning bylaws or ordinances in a manner that could be deemed to conflict with the statute and recommends consulting the City Solicitor and Town Counsel regarding any zoning amendments.

Draft Regulations, 935 CMR 500

Local Control

Additional Local Permits for Adult Use May Be Required

- ❖ Although municipalities are prohibited from using a zoning bylaw or ordinance to *prevent* the conversion of a registered marijuana dispensary, the Commission does not interpret the word *prevent* to prohibit the municipality from requiring a registered marijuana dispensary eligible under the statute to apply for any additional local permits required to change its existing operation with a marijuana establishment for adult use.
- ❖ The Commission cautions local permitting boards from exercising their discretion in acting on a request for a local permit in a manner that could be deemed to conflict with the statute and recommends consulting the City Solicitor and Town Counsel during their decision-making.

Draft Regulations, 935 CMR 500

Local Control

Impact of Banning or Limiting the Number of Marijuana Establishments in a Municipality

- ❖ ***Ban:*** If a municipality enacts a complete prohibition on marijuana establishments for adult use through a general bylaw or ordinance, the Commission will not issue a license so as to authorize the conversion of a registered marijuana dispensary to a marijuana establishment for adult use in that municipality.
- ❖ ***Limited Number:*** If a municipality adopts a general bylaw or ordinance imposing a limitation on the number of marijuana establishments within its community, such that the amount allowed is less than the registered marijuana dispensaries within that community, the municipality must determine which registered marijuana dispensaries will be permitted to proceed to the application process for adult use by executing a host community agreement with those dispensaries.

Draft Regulations, 935 CMR 500 Local Control

- ❖ The Commission encourages municipalities to carefully consider the impact of the particular marijuana establishment proposed for a community, as well as benefits it may bring in local revenue and employment, when negotiating a host community agreement.
- ❖ Please note that there is legislation pending to protect host community agreements executed on or before July 1, 2017 (<https://malegislature.gov/Bills/190/H4284>). The same legislation requires municipalities receiving community impact fee payments to establish a separate account into which fee payments must be deposited.
- ❖ During each fiscal year, the funds in the account may be appropriated for the purposes identified in the agreement and the balance in the account would be available for appropriation in the next fiscal year. Any deficit in the account must be raised by taxation, unless the municipality has otherwise provided, and would be subject to all applicable provisions of G.L. c.59.

Draft Regulations, 935 CMR 500 Licensing Process

Priority Applicants:

- Priority RMD Applicant means a registered marijuana dispensary with a final or provisional certificate of registration in good standing with the Department of Public Health or Commission, as applicable.
- Economic Empowerment Applicant means an applicant who meet certain criteria demonstrating experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under chapter 94C.

Regulations, 935 CMR 500 Licensing Process

Economic Empowerment Priority Applicants must demonstrate 3 of the following:

- ❖ Majority of ownership belongs to people who have lived in *areas of disproportionate impact* for 5 of the last 10 years;
- ❖ Majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;
- ❖ At least 51% of current employees/sub-contractors reside in *areas of disproportionate impact* and will increase to 75% by first day of business;
- ❖ At least 51% of employees or sub-contractors have drug-related CORI, but are otherwise legally employable in a cannabis-related enterprise;
- ❖ A majority of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent; or
- ❖ Owners can demonstrate significant past experience in or business practices that promote economic empowerment in areas of disproportionate impact.

Regulations, 935 CMR 500 Communities of Disproportionate Impact

Abington
Amherst
Boston
Braintree
Brockton
Chelsea
Fall River
Fitchburg
Greenfield
Haverhill
Holyoke
Lowell
Lynn
Mansfield

Monson
New Bedford
North Adams
Pittsfield
Quincy
Randolph
Revere
Southbridge
Spencer
Springfield
Taunton
Walpole
Wareham
West Springfield
Worcester

Note: Boston, Worcester, Springfield and Lowell will be further subdivided by neighborhood.

Draft Regulations, 935 CMR 500 Social Equity Program

Eligibility

One or more of the following criteria must be met:

- ❖ Residency in an area of disproportionate impact, demonstrated by:
- ❖ Residency in Massachusetts for at least the preceding 12 months and a conviction for a 94C offense under M.G.L. c. 94C or an equivalent conviction in another jurisdiction; or
- ❖ Residency in Massachusetts for at least the preceding 12 months and proof that the individual was either married to or the child of an individual convicted under M.G.L. c. 94C or an equivalent conviction in another jurisdiction.



Draft Regulations, 935 CMR 500 Social Equity Program

Training

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



Draft Regulations, 935 CMR 500 Licensing Process

Background Check Packet includes:

- ❖ A CORI check form;
- ❖ Requirement for fingerprinting that enables a multi-state criminal history check;
- ❖ Narrative information from individuals listed on the application as executives, members, close associates or managers.



Draft Regulations, 935 CMR 500 Licensing Process

Mandatory Disqualifications:

- ❖ Applicants with Open or Unresolved Criminal Proceedings at the time of application but excluding solely marijuana-related proceedings under M.G.L. c. 94C, §34;
- ❖ Applicants with Open or Unresolved Marijuana Business-Related violations in MA or in another jurisdiction that have been unresolved for 6 months or the nature of which would necessarily result in a determination of unsuitability;
- ❖ Trafficking conviction for drugs other than marijuana; or
- ❖ Failure to register as a sex offender.
- ❖ **Statutory Restriction:** convictions for solely marijuana-related offenses are NOT to be a disqualifier for licensure.

Draft Regulations, 935 CMR 500 Operational Requirements

- ❖ All marijuana and marijuana products must be handled in compliance with sanitary requirements.
- ❖ Edible marijuana products are not considered food under the law, but must be handled in compliance with sanitary requirements for wholesale manufacturing, retail sale and transportation of food.
- ❖ All marijuana and marijuana products must be tested in compliance with the testing protocols established by the Department of Public Health.
- ❖ All marijuana and marijuana products must be tracked from seed to sale in interoperable database.
- ❖ \$5,000 bond or cash to be posted in the event of the need to destroy cannabis or cannabis products
- ❖ Required compliance with existing state laws on cultivation, waste disposal, etc.
- ❖ Energy conservation and environmental requirements.

Draft Regulations, 935 CMR 500 Security Requirements

- ❖ Cultivators, marijuana product manufacturers, independent laboratories and research facilities must restrict access to only authorized employees and visitors;
- ❖ All inventory must be tracked on the interoperable system set by the Commission;
- ❖ Must be alarmed;
- ❖ Visitors must be logged;
- ❖ Marijuana and marijuana products must be stored in limited access areas;
- ❖ 24 hour video surveillance is required;
- ❖ Must be sufficiently lit to allow readable image to be captured;
- ❖ Security plan filed with local law enforcement.



Access to Retail Stores

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



Permitted Practices

- ❖ CAN have logo, but logo CAN'T use medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo;
- ❖ Sponsorship of a charitable, sporting or similar event, but marketing limit to audience expected to be 85% 21 years and older according to data;
- ❖ Locked display cases inside each establishment;
- ❖ Any marketing shall include statement "Please Consume Responsibly" and
- ❖ at least 2 other warnings from menu of choices;
- ❖ All marketing must include warning developed by DPH.



Warning Graphics on Marijuana and Marijuana Products



Draft Regulations, 935 CMR 500 Marketing, Advertising, Branding

Prohibited Practices

- ❖ Deceptive, false, misleading, untrue, or misleading marketing;
- ❖ No TV, radio, internet or other electronic communication, billboard or other outdoor advertising, or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older as determined by data;
- ❖ Using statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age;
- ❖ mascots, cartoons, brand sponsorships and celebrity endorsements deemed to appeal to a person less than 21 year of age;
- ❖ false or misleading statements concerning other licensees and the conduct and products of such other licensees;



Prohibited Practices (cont'd)

- ❖ Promotional items prohibited by the Commission, including, but not limited to, giveaways, coupons, or “free” or “donated” marijuana;
- ❖ Representations of safety, curative or therapeutic effects, other than labeling required pursuant by regulations, unless supported by evidence or data;
- ❖ Installation of any neon signage or any illuminated external signage that fails to comply with all local ordinances and requirements;
- ❖ Installation of any external signage that is illuminated beyond the period of 30 minutes before sundown until closing;
- ❖ Use of vehicles equipped with radio or loud speakers;



Draft Regulations, 935 CMR 500 Marketing, Advertising, Branding

Prohibited Practices (cont'd)

- ❖ The use of radio or loud speaker equipment in any Marijuana Establishment for advertising;
- ❖ Advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by data;
- ❖ Operation of any website of a Marijuana Establishment that fails to verify that the entrant is at least 21 years of age;
- ❖ Use of unsolicited pop-up advertisements on the internet;



Prohibited Practices (cont'd)

- ❖ Marketing in or on public or private vehicles, at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues, including, wrapping vehicles;
- ❖ Marketing marijuana or marijuana products, on clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
- ❖ Signs or other printed matter advertising any brand or kind of marijuana product displayed on the exterior or interior of any licensed premises wherein marijuana products are not regularly and usually kept for sale;
- ❖ Marketing price of marijuana or marijuana products, except they can have list in store and on website;



Prohibited Practices (cont'd)

- ❖ Display of marijuana or marijuana products so as to be clearly visible to a person from the exterior of a Marijuana Establishment;
- ❖ Any marketing that fails to contain a health warning by DPH;
- ❖ Improper or objectionable nature, including obscene or suggestive statements.



Draft Regulations, 935 CMR 500 Labelling Requirements

Comprehensive labelling requirements, including:

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

Comprehensive packaging requirements:

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

Comprehensive packaging requirements (cont'd):

- ❖ Products with multiple servings must say “INCLUDES MULTIPLE SERVINGS”;
- ❖ Consumer must be able to easily perform the division into single servings;
- ❖ Edible Marijuana Products in a solid form shall be easily and permanently scored to identify individual servings;
- ❖ If a product is unable to be easily and permanently scored to identify individual servings, the it shall be packaged in a single serving size;



Draft Regulations, 935 CMR 500 Packaging Requirements

Comprehensive packaging requirements (cont'd):

- ❖ Packaging for marijuana product beverages shall be packaged solely in a single serving size. Multiple serving marijuana product beverages are strictly prohibited for sale;
- ❖ Each single serving of an Edible MIP contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates that the single serving is a Marijuana Product;
- ❖ Serving size shall be determined by the processor but in no instance shall an individual serving size of any MARIJUANA PRODUCT contain more than five (5) milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC).



Draft Regulations, 935 CMR 500 Training Requirements

Training

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



Draft Regulations, 935 CMR 500 Inspections

Inspections:

- ❖ Regularly scheduled;
- ❖ Unscheduled;
- ❖ Secret Shopper Program;
- ❖ Cooperation required.

Enforcement:

- ❖ Cease & Desist Order;
- ❖ Limitation of Sales;
- ❖ Quarantine;
- ❖ Suspension;
- ❖ Revocation;
- ❖ Fines.

Regulations, 935 CMR 500 Leadership Rating Criteria

Leadership Rating Criteria

Evaluated at time of renewal of license

Social Justice Leader

Local Employment Leader

Compliance Leader

Energy & Environmental Leader



Thank you!

Email:

CannabisCommission@State.MA.US
Katharine.doyle@mass.gov
Jennifer.Flanagan@mass.gov

Telephone:

[617-701-8400](tel:617-701-8400)

Website:

<https://mass-cannabis-control.com/>

Twitter:

@MA_Cannabis
@KayDoyleMA
@JenFlanaganMA