



# CITY OF BOSTON IN CITY COUNCIL

Offered by Councilor Kim Janey

## AN ORDINANCE ESTABLISHING EQUITABLE REGULATION OF THE CANNABIS INDUSTRY IN THE CITY OF BOSTON

**WHEREAS:** In 2016, the Citizens of the Commonwealth of Massachusetts approved ballot Question 4, a proposal to legalize and regulate adult-use marijuana, with 53.7% of the vote in the Commonwealth and 62.6% of the vote in the City of Boston in the affirmative, according to Massachusetts Election Statistics, and the Legislature passed Chapter 55 of the Acts of 2017, *An Act to ensure safe access to marijuana*, and;

**WHEREAS:** The cannabis industry is likely to become a multi-million dollar industry, with early sales already generating millions of dollars, and;

**WHEREAS:** Certain racial and ethnic groups, in particular Blacks and Latinos, have been disproportionately arrested and incarcerated for the use and distribution of cannabis and other drugs due to the so-called "War on Drugs," and;

**WHEREAS:** To date, no certified minority-owned businesses have been licensed by the state's Cannabis Control Commission, and;

**WHEREAS:** The law requires the development of "procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities," and;

**WHEREAS:** The City of Boston has, in accordance with MGL Chapter 94G and 935 CMR 500, begun to hold community meetings and discussions about, and negotiate host community agreements with, people and groups seeking to operate cannabis establishments, and the City of Boston Zoning Commission has approved zoning regulations regarding adult-use cannabis establishments, and;

**WHEREAS:** Other municipalities have enacted equity programs on a municipal level as a part of their local approval process, and;

**WHEREAS:** Many parts of Boston have been identified by the Cannabis Control Commission as areas disproportionately impacted, and;

**WHEREAS:** It is important to ensure that communities disproportionately impacted by the prohibition of cannabis are able to benefit from this multi-million dollar industry. ***NOW, THEREFORE, BE IT***

**ORDERED:** By the Boston City Council, as follows:

## Section 1:

The City of Boston Code, Ordinances, Chapter VIII shall be amended by adding at the end thereof, the following new section and subsections:

### **8-13: Establishing the Equitable Regulation of the Cannabis Industry in the City of Boston.**

#### **8-13.1 Purpose**

The purpose of this ordinance is to ensure equity in the City of Boston's cannabis industry. The policies enacted during the "War on Drugs" and its associated policies have had a disproportionate impact on people of Black, African American, Latino, and/or Hispanic descent. Within the City of Boston, neighborhoods particularly impacted include Roxbury, Dorchester, and Mattapan. It would be unjust if, following the legalization of cannabis by the voters of the Commonwealth of Massachusetts, people from the effected groups were not allowed to receive the economic benefits of legalization.

#### **8-13.2 Definitions**

"Cannabis Control Commission" or "CCC," as used herein, shall refer to the Massachusetts Cannabis Control Commission.

"Craft marijuana cooperative," a marijuana cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

"Marijuana applicant" or "applicant," any person, business, organization, or group that has submitted an application to the City of Boston to open a marijuana establishment.

"Marijuana," or "cannabis" all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "marijuana" shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Marijuana cultivator," an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

"Marijuana delivery-only retailer," a marijuana retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, craft marijuana cultivator cooperative facility, marijuana product manufacturer facility, or micro-business.

“Marijuana establishment,” a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, marijuana research facility, or any other type of licensed marijuana-related business.

“Marijuana independent testing laboratory,” a laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and MGL c. 64C, sec. 34.

“Marijuana product manufacturer,” an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

“Marijuana products,” products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

“Marijuana research facility,” an entity licensed by the Cannabis Control Commission to engage in research projects. Such a facility may cultivate, purchase, or otherwise acquire cannabis for the purpose of conducting research regarding marijuana or marijuana products. A research facility may be an academic institution

“Marijuana retailer,” an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

“Marijuana social consumption operator,” a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishments and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana or marijuana products on its premises only.

“Microbusiness,” a co-located marijuana establishment that can be either a marijuana cultivator of up to 5,000 square feet or product manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

### **8-13.3 Boston Equity Program**

An applicant shall be designated as an equity applicant if at least 51% of the ownership meets at least 3 of the following criteria:

1. A person who has resided in an area of disproportionate impact, as defined by the Cannabis Control Commission, for at least 5 of the past 10 years
2. A person who has a past conviction for the possession, sale, or trafficking of Marijuana, who has been a resident of Boston for the past 12 months; OR a person who is married to or is the

child of a person with a past conviction for the possession, sale, or trafficking of Marijuana, who has been a resident of Boston for the past 12 months

3. A person who has resided in the City of Boston for at least the past 5 years
4. A person who is of Black, African American, Hispanic, or Latino descent
5. A person whose annual household income is below 400% of the federal poverty level

### **8-13.4 Boston Cannabis Board**

The “Boston Cannabis Board,” referred to herein as “The Board,” is hereby established. The Board shall be responsible for ensuring that the cannabis industry remains equitable and safe, and shall be responsible for licensing all marijuana establishments. The Board may, at its discretion, also make recommendations to the Mayor and City Council on developing policies to promote equity in the cannabis industry.

The Board shall be made up of five (5) members, three (3) of whom shall be nominated by the Mayor and confirmed by the City Council, and two (2) of whom shall be nominated by the City Council and approved by the Mayor. The members may serve a maximum of three (3) two-year terms.

1. The Chair of the Board shall be designated by the Mayor
2. At least one member of the Board shall have experience working in public health policy
3. At least one member of the Board shall have experience providing support to small businesses in economically disadvantaged areas, for example in providing technical assistance
4. At least one member of the Board shall have experience working for a public safety agency
5. At least one member of the Board shall have been incarcerated due to the prohibition of marijuana, or whose parent, sibling, or child shall have been incarcerated due to such prohibition

The Board shall have the authority to promulgate regulations for the cannabis industry in the City of Boston and shall have the authority to create its own forms and procedures, within the confines of this Ordinance.

The Boston Cannabis Board shall not license any marijuana establishment, excepting those who had submitted their initial application on or before February 1, 2019, with an applicant who does not qualify as an equity applicant for the first two years following the passage of this Ordinance. Following that period, the Board shall maintain twice the number of equity applicants to applicants who do not qualify as equity applicants.

The Boston Cannabis Board shall establish a program to offer equity applicants services, which may include:

1. Technical assistance with business operations, including the development of business plans
2. Assistance recruiting employees
3. Guidance and assistance through the application process
4. Assistance with legal compliance
5. Accounting and tax preparedness assistance
6. Best practices for operating in the marijuana industry
7. Assistance with store security
8. Assistance identifying and raising funds and capital and identifying vendors

### **8-13.5 Applicability**

Any persons or entity seeking to operate any type of adult-use marijuana establishment shall require a local license issued by the Boston Cannabis Board. The number of available licenses for marijuana retailers shall be no less than 20% of the number of liquor licenses issued in the City, pursuant to M.G.L. Chapter 138 § 15 (commonly known as package stores).

### **8-13.6 Application Requirements**

An applicant in any category of cannabis establishment shall file, in a form and manner specified by the Boston Cannabis Board, an application for licensure as a cannabis establishment. Applicants shall be required to submit the following information as part of their initial application:

1. The entity name and the trade name to be used, and business certificate
2. The names, addresses, and contact information of the business owners and/or investors
3. The address of the proposed business, and proof of permission from the owner of the property to operate on the premises or lease information
4. The name, address, and contact information of the property owner
5. The party responsible for managing the application and their contact information
6. Whether the applicant has been designated as an Economic Empowerment applicant, or whether they are eligible for the designation, by the Massachusetts Cannabis Control Commission
7. Whether the applicant has been designated as a Social Equity Program participant, or whether they are eligible for the program, by the Massachusetts Cannabis Control Commission
8. Any other information or documents required by the Board

### **8-13.7 Community Outreach, Host Community Agreements**

The Mayor's Office of Neighborhood Services, in collaboration with the Board and the District City Councilor for the proposed location, shall hold at least one community meeting on the application near the proposed location of the establishment. The meeting must be held within 6 months of the initial application being filed.

A notice shall be issued which shall include the date, time, place, and subject matter of the meeting, including the proposed address of the marijuana establishment. It shall be published in a newspaper of general circulation at least seven calendar days prior to the meeting. A copy of the notice shall be filed with the City Clerk. Copies shall be mailed or delivered to all residents within 300 feet of the proposed location. The meeting shall include a discussion of the following topics: the type(s) of Marijuana Establishment to be located at the proposed address; information adequate to demonstrate that the location will be maintained securely and steps to be taken by the Marijuana Establishment to prevent diversion to minors; a plan by the Marijuana Establishment to positively impact the community; and information adequate to demonstrate that the location will not constitute a nuisance to the community.

Pursuant to M.G.L. Chapter 94G § 3(d), all applicants shall be required to negotiate a host community agreement with the City of Boston. The Office of Neighborhood Services shall work in collaboration with the District City Councilor in negotiating host community agreements. The Boston Cannabis Board shall be responsible for ensuring that host community agreements are followed by licensees.

### **8-13.8 Criteria**

The Board shall grant licenses with the goal of ensuring that licenses are granted with respect to equity, quality, and community safety. Applications shall be evaluated based on the Applicant's:

1. Demonstrated compliance with the laws and regulations of the Commonwealth and the City of Boston, including the Boston Zoning Code, weighted at 15%
2. Whether the applicant is an equity applicant under the City's equity program established in Section 3 of this Ordinance, weighted at 20%
3. Employment of Boston and neighborhood residents and plans to offer competitive wages and benefits to employees, weighted at 15%
4. Commitment to help monitor health and environmental impacts to the neighborhood and on the local youth population, weighted at 15%
5. Quality of relationship with community, weighted at 15%
6. Ownership structure, for instance if the business is an employee-owned cooperative, weighted at 10%
7. Plans for parking/transportation to the establishment, weighted at 10%

The Board shall also consider the recommendations of elected officials.

### **8-13.9 Fees**

The Board may establish reasonable fees for licenses. The fee for a marijuana retail license shall not exceed the fee levied on an All Alcohol Retail (Package) Store.

License fees shall be deposited into a fund to pay for the operations of the Boston Cannabis Board, to pay for the equity applicant assistance program, and to support minority- and women-owned business enterprises. Tax receipts collected under M.G.L. Chapter 64N § 3 shall also be deposited into this fund.

### **8-13.10 Inspections**

The City of Boston Inspectional Services Division shall conduct inspections to ensure compliance with state and local regulations.

### **8-13.11 Enforcement**

The provisions of this ordinance may be enforced by the Commissioner of Inspectional Services, by noncriminal disposition pursuant to M.G.L. Chapter 40 § 21D. Each day on which a violation exists shall be deemed a separate offense. Any fines levied shall be deposited into the fund established in Section 8-13.9.

### **8-13.12 Conditions**

Licenses for Marijuana Establishments shall only be valid so long as each entity signs a Community Host Agreement with the City of Boston, receives a Final License from the Cannabis Control Commission within six months after receiving the license from the Board, and the Final License from the CCC remains valid and current. The Board may impose additional reasonable restrictions and conditions as to the operation under the license, and may suspend the license if it deems that such restrictions or conditions have been violated.

### **8-13.13 Transferability of License**

Any license granted under this ordinance shall be a personal privilege and shall not be assignable or transferable, without the approval of the Boston Cannabis Board.

#### **8-13.14 Revocation and Expiration**

The Boston Cannabis Board may modify, suspend, or revoke any license for just cause, after reasonable notice and a hearing. Unless otherwise specified, each license shall expire five years after the issuing of such license. Licenses may be renewed at the discretion of the Boston Cannabis Board.

#### **8-13.15 Registry**

The Board shall publish online a registry that lists all currently licensed cannabis establishments, the type(s) of licenses held by each establishment, the owner(s) name(s), the physical address(es) of operation, and whether the applicant is a participant in the City's equity program. The registry shall be accompanied by a map, showing the locations of all licensed establishments.

#### **8-13.16 City Council Updates**

The Board shall, each year, submit to the City Council an update on the City's equity program, the total number of licenses issued, and any recommended policy changes.

#### **8-13.17 Severability**

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

#### Section 2.

#### **Effective Date.**

The provisions of this ordinance shall be effective immediately upon passage.

Filed in Council: February 6, 2019