

FROM
NICK N.
LICENSING
BO420
5/14/18

CITY OF SOMERVILLE
ORDINANCE NO. 2018-18 as amended by 2018-23
In Board of Aldermen: December 13, 2018

**AN ORDINANCE AMENDING CHAPTER 9, SECTION 9-3(b) OF THE
SOMERVILLE CODE OF ORDINANCES AND ADDING SECTION 2-221
TO CHAPTER 2, DIVISION 4 REGARDING ADULT USE
MARIJUANA ESTABLISHMENTS**

WHEREAS, By vote at the State election on November 8, 2016, the voters of the Commonwealth approved legislation regulating commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of such products. It also authorized cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana businesses; and,

WHEREAS, Currently, the City of Somerville Code of Ordinance does not specify any license requirements for persons or entities seeking to operate adult use marijuana establishments in the City; and,

WHEREAS, The Legislature of the Commonwealth has determined that cities and towns in Massachusetts should not be permitted to outright prohibit adult-use marijuana facilities without a city-wide referendum vote;

WHEREAS, The Licensing Commission of the City of Somerville may grant local licenses for adult-use marijuana establishments regulated under section 34 of chapter 94C of the General Laws and 935 CMR 500.

THEREFORE, be it adopted by the Board of Aldermen, in session assembled, that the below listed sections of the Somerville Code of Ordinances are hereby amended and created as identified.

Chapter 9. Offenses and Miscellaneous Provisions, Sec. 9-3 (b) of the Code of Ordinances is hereby amended as follows:

(b) No person shall sell or deliver marijuana or tetrahydrocannabinol, unless licensed by the Licensing Commission and the Commonwealth of Massachusetts Cannabis Control Commission and also permitted under Sections SZO 7.15 or 7.16.

**Section 2-221. Adult Use Marijuana Licenses is hereby added under DIVISION 4.
LICENSING COMMISSION:**

Sec. 2-221. Adult Use Marijuana Licenses

A. Definitions.

An adult-use marijuana establishment shall be considered to be one of the following (The following definitions are as defined by 935 CMR 500: Adult Use of Marijuana, as amended.):

Marijuana Establishment means a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

Independent Testing Laboratory means a laboratory that is licensed by the Commission and is:

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) 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 Commission;
- (b) independent financially from any Medical Marijuana Treatment Center (Registered Marijuana Dispensary), Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Cultivator means an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.

Craft Marijuana Cooperative means 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 Product Manufacturer means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility means an entity licensed to engage in research projects by the Commission. A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana products. A research facility may be an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth. Any research involving humans must be authorized by an Institutional Review Board. A research facility may not sell marijuana cultivated under its research license. All research regarding marijuana must be conducted by individuals 21 years of age or older.

Marijuana Retailer means an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Microbusiness means a co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator 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.

B. Applicability

(a) License Required

Any persons or entity seeking to operate any type of adult-use marijuana establishment, except for a marijuana transporter, shall require a local license from the Licensing Commission. The number of such available licenses for marijuana retailers shall be no less than 20% of the number of liquor licenses issued in the City, pursuant to G.L. c. 138, § 15 (commonly known as package stores). Applicants shall provide any other information required by the Licensing Commission. There shall be a temporary cap of no more than 12 adult marijuana retail establishments, which cap shall expire after 24 months. This cap may be lifted or modified at any time, or extended, through amendment of this ordinance.

(b) Priority Applications

The Licensing Commission shall consider an application for licensure from only a priority applicant within two years from the date of passage of this Ordinance, unless an applicant is seeking a non-retail license. For Marijuana Retailer licenses, there are two groups of priority applicants that are known as Group A and Group B. During the two year priority period, the Licensing Commission shall only issue a license to an applicant in Group B if, after issuance, there will be an equal or greater number of currently active licenses held by entities that were licensed as applicants from Group A. Two years after the date of passage of this Ordinance the Licensing Commission shall continue to prioritize priority applicants, but may consider a Marijuana Retailer application from a non-priority applicant. At no time shall the Licensing Commission issue more Marijuana Retailer licenses to non-priority applicants than are currently valid and issued to priority applicants. In order to be considered a priority applicant in Group A, the persons(s) or entity applying must meet at least one of the following criteria:

- 1) An Economic Empowerment Applicant certified by the Commonwealth of Massachusetts Cannabis Control Commission (CCC), or separately certified by the Somerville Licensing Commission to meet the criteria specified in 935 CMR 500.101(1)(e)2.a-f;
- 2) Owned by a Somerville resident(s) or entities with a majority (at least 50%) of its ownership made up of Somerville residents; or,
- 3) Cooperatively owned entities.

A Registered Marijuana Dispensary currently operating within the City of Somerville that will continue selling medicinal products shall be considered a priority applicant in Group B.

C. Application Requirements

An applicant in any category of Marijuana Establishment shall file, in a form and manner specified by the Licensing Commission, an application for licensure as a Marijuana Establishment. The application shall consist of the same three packets as required by the CCC pursuant to 935 CMR 500.101: an Application of Intent packet; a Background Check packet; and a Management and Operations Profile packet. The applicant may file individual packets separately or as a whole. 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 Licensing Commission. The application will not be considered to be complete until the Licensing Commission determines that each individual packet is complete and notifies the applicant that each packet is complete.

D. Evaluation Criteria

The Licensing Commission shall grant licenses with the goal of ensuring that the needs of the Commonwealth are met with regard to access, 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 Somerville;
- 2) Consistency to community values outlined in SomerVision; and,
- 3) Thoroughness of response to the application requirements.

The Licensing Commission shall consider all of the following factors in its evaluation of applicants:

- 4) A commitment to help monitor health impacts to the neighborhood and on the local youth population;
- 5) Inclusion of an inventory of or manufactures locally/regionally grown products;
- 6) Employment of local residents and offers competitive wages and benefits to employees;
- 7) Use of sustainable green/renewable energy practices;
- 8) The criminal records of the persons or owners of entities (except for marijuana-related infractions); and
- 9) Quality of relationship with the community.

The Licensing Commission shall also consider the recommendation of the Economic Development Division of OSPCD and the Health and Human Services Department on each application that is submitted.

E. Fees

The Licensing Commission may establish fees for such licenses.

F. Inspections

The City of Somerville Health and Human Services Department shall conduct inspections to ensure compliance with state and local regulations.

G. Conditions

Licenses for Marijuana Establishments issued by the Licensing Commission shall only be valid so long as each entity signs a Community Host Agreement with the City of Somerville, receives a Final License from the CCC within six months after receiving the license from the Licensing Commission, and the Final License from the CCC remains valid and current. The Licensing Commission may impose additional reasonable restrictions and conditions as to the operation under the license.

H. Transferability of License

Any license granted under this ordinance shall be a personal privilege and shall not be assignable or transferable.

I. Revocation

The Licensing Commission may modify, suspend or revoke any license for just cause, after reasonable notice and a hearing.

J. Enforcement

The provisions of this ordinance may be enforced by the Director of Health and Human Services and Superintendent of Inspectional Services, by noncriminal disposition pursuant to G. L. c. 40, § 21D. Each day on which a violation exists shall be deemed a separate offense. Any person,

firm, corporation, association or other entity violating any provision of this article may be punished in accordance with the provisions of Section 1-11.

K. Expiration of License

Unless otherwise specified by the Licensing Commission, each license shall expire five years after the issuing of such license. A license issued under this ordinance may be renewed by the Licensing Commission.

L. Severability

The provisions of this article are severable, and if any part of this article should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the article and the remainder of the article shall stay in full force and effect.

Approved:

President
Board of Aldermen

CITY OF SOMERVILLE
ORDINANCE NO. 2018-21
IN BOARD OF ALDERMEN: December 13, 2018

**AN ORDINANCE AMENDING THE SOMERVILLE ZONING ORDINANCE (SZO) TO
AMEND ARTICLES 2, ARTICLE 6, AND ARTICLE 7 REGARDING ADULT USE
MARIJUANA ESTABLISHMENTS**

WHEREAS, By vote at the State election on November 8, 2016, the voters of the Commonwealth approved legislation regulating commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of such products. It also authorized cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana businesses; and,

WHEREAS, Currently, the City of Somerville Zoning Ordinance does not specify if an adult use marijuana facility is permitted in the City; and,

WHEREAS, The Legislature of the Commonwealth has determined that cities and towns in Massachusetts should not be permitted to outright prohibit adult-use marijuana facilities without a city-wide referendum vote;

THEREFORE, be it adopted by the Board of Aldermen, in session assembled, that the below listed sections of the Somerville Zoning Ordinance (SZO) are hereby amended and created as identified.

Article 2, Definitions, Section 2.2.96.2 of the SZO is hereby added.

The following definitions are as defined by 935 CMR 500: Adult Use of Marijuana, as amended.

Marijuana Establishment means a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

Independent Testing Laboratory means a laboratory that is licensed by the Commission and is:

- (a) Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) 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 Commission;
- (b) Independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- (c) Qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Cultivator means an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.

Craft Marijuana Cooperative means 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 Product Manufacturer means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility means an entity licensed to engage in research projects by the Commission.

- (a) A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana products.
- (b) A research facility may be an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth.
- (c) Any research involving humans must be authorized by an Institutional Review Board.
- (d) A research facility may not sell marijuana cultivated under its research license.
- (e) All research regarding marijuana must be conducted by individuals 21 years of age or older.

Marijuana Retailer means an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Medical Marijuana Facility (also known as Registered Marijuana Dispensary), as defined in the SZO 2.2.96.1, means a facility in which a non-profit entity acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. The entity may not sell any products at the facility other than marijuana, marijuana-infused products (MIPs), marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes. The entity may, however, conduct a patient education program in compliance with state regulations.

Microbusiness means a co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator 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.

Article 6 of the SZO, Establishment of Zoning Districts, Section 6.1.24 is hereby amended.

6.1.24 Medical Marijuana Overlay Districts.

Purpose. To establish areas where Medical Marijuana Facilities and Marijuana Retailers may be permitted subject to Section 7.15 and Section 7.16, respectively.

Article 7 of the SZO, Permitted Uses, Section 7.15: Medical Marijuana Facilities, is hereby amended.

7.15.a. A Medical Marijuana Facility shall be permitted by special permit in the Medical Marijuana Overlay Districts.

Article 7 of the SZO, Permitted Uses, Section 7.16: Recreational Marijuana – Study period is hereby deleted and replaced with a new Section 7.16 as follows:

7.16 Adult Use Marijuana Establishments

- a. All Adult Use Marijuana Establishments shall receive a License from the *Licensing Commission* pursuant to Section 2-221 of the Somerville Code of Ordinances prior to a special permit application or a building permit application being considered complete.
- b. *Independent Testing Laboratory* Shall be allowed in the same manner that a “Laboratory engaged in research, experimental and testing activities which may include the development of mockups and prototypes but not the manufacture of finished products” use is allowed under SZO 7.11.12.10.
- c. *Marijuana Cultivator* Shall be allowed in the same manner that a “Commercial farm and/or greenhouse without keeping of honey bees and/or hens: All operations conducted entirely within an enclosed building” use is allowed under SZO 7.11.9.10.1
- d. *Marijuana Product Manufacturer* Shall be allowed in the same manner that “General industrial uses, including manufacturing, assembly, and processing or other industrial operation, such as, but not limited to, the following: food products manufacture, machine or woodworking shop, printing and publishing operation, or metal finishing” are allowed under SZO 7.11.14.B.
- e. *Marijuana Research Facility* Shall be allowed in the same manner that an “Office, other than medical” use is allowed under SZO 7.11.7.1, a “Home occupation (must comply with definition in Article 2)” is allowed under SZO 7.11.4.e, and an “Office, within a primary residence of an architect, engineer, attorney, physician, dentist or other recognized profession, provided that all parking requirements of Article 9 are met” is allowed under SZO 7.11.4.f.
- f. Marijuana Retailers shall only be permitted under the following circumstances:
 1. A Marijuana Retailer shall be permitted by special permit in the Marijuana Overlay Districts.

2. Marijuana Retailers shall comply with the siting requirements in the Marijuana Overlay Districts set forth in the City of Somerville Zoning Map with respect to distance from schools, daycare centers, and facilities in which children commonly congregate. A principal entry door of a Marijuana Retailer, except for those of a Medical Marijuana Facility that is currently in operation within the City as of the adoption of this Ordinance and is seeking to convert to sell adult-use marijuana, may not be located within 300 feet of a principal entry door of a public or private school providing education in kindergarten or any of grades 1 through 12. These siting requirements have been developed to incorporate adequate separation, in a manner that is appropriate for Somerville's urban context, from public or private schools providing education in kindergarten or any of grades one through 12. For this reason, the overlay districts shall serve as a local requirement to supersede the provisions of 935 CMR 500.110(3).

3. Marijuana Retailers must be properly registered with the Massachusetts Cannabis Control Commission (CCC) pursuant to M.G.L. c. 94C, §34 and 935 CMR 500, licensed by the City of Somerville Licensing Commission, and must comply with all applicable state and local public health regulations and all other applicable state and local laws, rules, and regulations.

4. The special permit granting authority shall be the same board that issues special permits for the underlying zoning district.

5. A special permit shall only be approved if the special permit granting authority determines that the use meets the findings of Section 5.1.4 of the Somerville Zoning Ordinance. Additionally, for marijuana retailers with a principal entry door proposed within 500 feet of a principal entry door of a public or private school providing education in kindergarten or any of grades 1 through 12, the special permit granting authority must make a finding that a proposed marijuana retailer is not detrimental to the educational and spiritual activities of that school.

6. A Marijuana Retailer shall be limited to 10,000 square feet in net floor area.

7. A Marijuana Retailer shall be subject to the minimum parking requirements under Article 9 of the ordinance. The number of required parking spaces shall be set based upon the requirement for a Retail Sales/Rental or Retail and Service uses of this ordinance.

8. The applicant shall be required to submit a traffic and parking study to determine any traffic mitigation or additional parking needs.

9. Signage for the establishment must:

a. meet the regulations of the underlying zoning district.

b. incorporate no internal illumination.

c. be subject to review and approval of the SPGA as a part of the special permit application.

d. shall also conform to the requirements of 935 CMR 500 and M.G.L. c. 94C, §34.

APPROVED:

President

Board of Aldermen



City of Somerville
Massachusetts

Marijuana Overlay District
December 6, 2018

