



City of New Bedford

IN COMMITTEE

June 27, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Cannabis Regulation and Host Community Agreements Review considered a COMMUNICATION, Councillor Abreu, Chairman of the Committee on Cannabis Regulations and Host Community Agreements Review submitting a copy of memo regarding the first upcoming meeting on March 13, 2019. (Ref'd 2/14/19) (3/13/19-tabled 30 days) (5/14/19-tabled)

On motion by Councillor Rebeiro and seconded by Councillor Giesta, the Committee VOTED: To recommend to the City Council APPROVAL of the ORDINANCE, Relative to Marijuana Establishment Licenses. This motion passed on a voice vote.

IN COMMITTEE ON CANNABIS
REGULATION AND HOST COMMUNITY
AGREEMENTS REVIEW

Councillor Ian Abreu, Chairman

IA: dmb



CITY OF NEW BEDFORD

In the Year Two Thousand and Nineteen

AN ORDINANCE

RELATIVE TO THE MARIJUANA ESTABLISHMENT LICENSES

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Chapter 15 of the Code of Ordinances is hereby amended by inserting after Article VII, the following new Article:-

ARTICLE VIII. MARIJUANA ESTABLISHMENTS.

Sec. 15-120. Definitions.

As used in sections 15-120 through 15-131, the words below shall have the following meanings:-

Marijuana Establishment – as defined in section 4120B of Chapter 9.

Licensing authority – any Marijuana Establishment that obtains a license pursuant to sections in this Article.

Violation – any finding that the licensee is not compliant with any state or local law, regulation, condition or requirement.

Sec. 15-121. License Requirement.

A Marijuana Establishment as defined in section 4120B of Chapter 9 shall not operate within the City of New Bedford without first obtaining a license from the licensing authority. A separate license shall be required for each specific Marijuana Establishment and each different location.

Acquiring a license from the licensing authority pursuant to this article does not negate any requirement to obtain any other type of license or permit for the operation of a Marijuana Establishment pursuant to any other local or state law or regulation.

Sec. 15-122. Application.

- A. The licensing authority shall establish application procedures and policies not in conflict with any provisions of Article VIII of Chapter 15.

- B. Upon receipt of a properly completed application, the Licensing authority shall submit copies to the following:-
 - 1. City of New Bedford Police Department.
 - 2. Any other department, person or agency which the Licensing authority determines should investigate and comment on the application.
- C. Departments or agencies asked to investigate and comment on the application shall submit comment to the Licensing authority within 30 days of receiving the request.

Sec. 15-123. Fees.

The Licensing authority shall establish the application and license fees not in conflict with any provision of section 15-120 through 15-131 for obtaining or renewing a license pursuant to this section.

Any fee for a new license shall be prorated for the number of months the license will be in effect from the license effective date to ensuing June 30th.

Sec. 15-124. Term of License.

Every license issued under this article shall expire on June 30th of each year.

Sec. 15-125. Approval Criteria.

- A. The licensing authority shall approve, deny or conditionally approve the application within 90 days after the licensing authority determines the application complete.
- B. The licensing authority shall approve and issue the license if it determines the following:-
 - 1. The application is complete, signed by the applicant and the applicant has provided any additional information concerning the application requested by the licensing authority.
 - 2. The applicant has paid any applicable fees required by the licensing authority.
 - 3. There are no material misrepresentations contained in the application.
 - 4. The applicant has complied with all applicable state and local laws, ordinances, conditions, regulations, agreements or other requirements.
 - 5. The applicant has obtained all other necessary permits and met all necessary conditions for the operation of a Marijuana Establishment as required by applicable state and local laws, ordinances, conditions, regulations, agreements or other requirements.

- C. If the application is denied, the licensing authority shall clearly set forth, in writing, the grounds for denial.
- D. If the application is approved with conditions, the licensing authority shall clearly set forth, in writing, all the conditions imposed.

Sec. 15-126. Conditions.

The licensing authority may, at any time, impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and obtain compliance with the requirements of this Article and all areas where compliance is required.

Sec. 15-127. Duties of licensee.

- A. During the term of a license, the licensee shall at all times be responsible to remain compliant with the following:-
 - 1. State laws and regulations pertaining to the operation of Marijuana Establishments.
 - 2. Zoning laws.
 - 3. Any conditions of the licensee's special permit obtained pursuant to the provisions of section 4140B of Chapter 9.
 - 4. Terms of host community agreement.
 - 5. Regulations set forth by the Board of Health.
 - 6. Legal requirements of any city department.
 - 7. Any other applicable state or local law, regulation or properly assessed condition or requirement.
- B. Non compliance with any of the requirements shall be considered a violation. Every enforcement agent of the city shall notify the licensing authority whenever it finds that the licensee has committed a violation.
- C. The licensee shall permit any enforcement agency of the city to inspect the licensed premises at any time during the hours of operation; and during any off hours upon reasonable notice by the city enforcement agency.

15-127.1 Additional Requirements.

- A. The license issued pursuant to this Article shall be posted on the premises so that the same may be easily observed by the public.
- B. The Licensee shall maintain sales records and kept available for inspection by the Licensing Board.
- C. Each Licensee shall appoint a manager by a properly authorized and executed written delegation who shall have full authority and control of the premises and whom shall be satisfactory to the Licensing Board, and whom shall be a citizen of the United States. Immediate notice of the appointment must be made to the Licensing Board in writing.
- D. No product shall be stored, displayed or sold in any area of the premises not specified in the license.
- E. Excessive noise, crowds shall not be permitted on or about the premises. It is the responsibility of the licensee to enforce this paragraph.
- F. The premises must, at all times, be kept safe, clean, neat and sanitary.
- G. Any licensee intending to close the licensed operation for any period of time exceeding 7 days must notify the Licensing Board in writing before closing and shall provide reason and length of time.
- H. A current list of employees shall be submitted to the Licensing Board upon request.
- I. No licensee shall make any distinction or discriminate on the basis of race, religion, national origin, disability, sexual orientation, gender or gender identity.

Sec. 15-128. Renewal.

The licensing authority shall establish renewal procedures, policies and fees not in conflict with any provisions of sections 15-120 through 15-131.

The licensing authority shall not approve the renewal of any licensee who is in arrears on any taxes, fees, or any other amounts past due to the City of New Bedford.

Sec. 15-129. Suspension or revocation.

- A. Upon finding of a violation committed by the licensee, the licensing authority shall, at any and all times, have the discretion to suspend or revoke a license for a period of time proportionate to the seriousness of the violation committed or impose reasonable conditions on the licensee to reasonably prevent future violations.
- B. The licensing authority shall conduct a hearing within 60 days of being made aware of any violation committed by the licensee. The licensing authority shall send notice to the licensee describing the allegations of a violation and the date scheduled for a hearing.
- C. After hearing, if the licensing authority finds that the licensee has committed a violation, the licensing authority shall suspend the operation of the licensee's marijuana establishment until such time that the violation is remedied or until such time that the licensee has submitted a viable written plan for remedy to the satisfaction of the licensing authority. The licensing authority may immediately lift the suspension if the violation has been remedied to the satisfaction of the licensing authority.
- D. Whenever the licensing authority chooses not to suspend a license based on the submittal of a viable written plan for remedy, the licensing authority may subsequently suspend the license if the licensee has not followed through on the terms of a written plan for remedy.
- E. If at any time, the licensing authority finds that the licensee repeats a reasonably similar type of violation within a 3 year period, the licensing authority shall additionally suspend the license for a period of not less than 5 days.

Sec. 15-130. Notice.

All decisions of the licensing authority to approve or deny an application or renewal; imposition of conditions; suspension or revocation of license shall be sent in writing to the licensee or applicant and a copy shall be delivered to the mayor, city council, police department, board of health, building commissioner and planning board within 5 business days of the decision being rendered.

Sec. 15-131. Severability.

The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof, nor shall it invalidate any license, approval, valid condition or determination which previously has been issued.

SECTION 2.

This ordinance shall take effect in accordance to the provisions of Chapter 43 of the General Laws.