



## CITY OF BOSTON IN CITY COUNCIL

### 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 Massachusetts General Laws Chapter 94G and 935 Code of Massachusetts Regulations 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***

**ORDAINED:** 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 affected groups were not allowed to receive the economic benefits of legalization.

**8-13.2 Definitions**

“Area of disproportionate impact,” means a geographic area identified by the Boston Cannabis Board or the Cannabis Control Commission, which has had historically high rates of arrest, conviction, and incarceration related to marijuana crimes between 1971 and 2016.

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

“Close associate,” a person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a marijuana establishment licensed under this chapter.

“Controlling person,” an officer, board member or other individual who has a financial or voting interest of 10 percent or greater in a marijuana establishment.

“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.

“Investor,” any person or entity who has provided a marijuana applicant with financial resources in exchange for an ownership stake in the business.

“Licensee,” a person or entity licensed by the Boston Cannabis Board and the Cannabis Control Commission to operate a marijuana establishment.

“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 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 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.

“Marijuana transporter,” 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.

“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 by the Boston Cannabis Board as an equity applicant if at least 51% of its 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 last 10 years.
2. A person who has a past arrest or conviction for the possession, sale, manufacturing, or cultivation of Marijuana between 1971 and 2016, who has been a resident of Boston for the past 5 years; OR a person who is the child of a person with a past arrest or conviction for the possession, sale, manufacturing, or cultivation of Marijuana between 1971 and 2016, who has been a resident of Boston for the past 5 years.
3. A person who has resided in the City of Boston for at least the past 7 years.
4. A person who is of Black, African American, Hispanic, Latino or Asian descent.
5. A person whose annual household income is at or below 100% of the area median income
6. A person who has been certified by the Cannabis Control Commission as an Economic Empowerment Applicant and is a resident of Boston for at least one of the last three years.

The Office of Emerging Industries shall establish a program, known as the “Boston Cannabis Equity Program,” to offer equity applicants services, which may include:

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

An applicant or licensee shall only be eligible for the benefits of the Boston Cannabis Equity Program if they continue to meet the above conditions.

The City of Boston shall maintain an equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants.

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

The Mayor shall establish a Cannabis Board.

### **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 City of Boston.

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

An applicant in any category of cannabis establishment shall file, in a form and manner specified by the City of Boston, 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, controlling persons, close associates, and 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, mailing 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 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 City 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.

All approved applicants shall be required to negotiate a host community agreement with the City of Boston, which must be kept current at all times. The City shall negotiate host community agreements and work in collaboration with the district city councilor. The district city councilor shall be responsible for providing a letter of support, non-opposition, or non-support.

### **8-13.8 Criteria**

The City shall grant licenses with the goal of ensuring that licenses are granted with respect to equity, quality, and community safety. Licensees shall be expected to comply with the laws and regulations of

the Commonwealth of Massachusetts and the City of Boston. Applications shall be evaluated based on the Applicant's score as follows:

Applications shall be evaluated based on the Applicant's:

1. Diversity and Inclusion Plan - 25%
2. Employment Plan - 20%
  - a. Plan for employment of Boston residents.
  - b. Plan for employment of minorities and women.
  - c. Plan for offering competitive wages and benefits for local residents.
  - d. Plan for employment of individuals with criminal records.
3. Community Feedback/Public Support - 20%
  - a. Letters of support from local elected officials.
  - b. Letters of support from local community organizations.
4. Location, Safety and Security - 20%
  - a. Plan for on-site security personnel.
  - b. Plan for building and product security.
  - c. Plan for protecting youth from accessing the product.
5. Parking/Transportation Plan - 15%
  - a. Access to public transportation.
  - b. Accessibility and amount of on-site parking.
  - c. Plan for the transportation and delivery of product.
  - d. Plan for the transportation of monies to and from the site.

### **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 Store. The Board may also establish a reasonable annual fee in conjunction with the annual renewal of a license.

### **8-13.10 Inspections and Enforcement**

An applicant must secure the appropriate permits issued by the Cannabis Board, Inspectional Services Department and, if necessary, any other department or agency of the City of Boston. All licensed premises shall be subject to inspection by the Police Department of the City of Boston and other duly authorized agents of the Board. All licensees are subject to the General Rules of the Board as they may be amended at the Board's discretion. Upon citation from any City of Boston department or agency, that department or agency must notify the Cannabis Board.

### **8-13.11 Boston Equity Fund**

The Office of Emerging Industries shall administer and support the Equity Program as described in Section 8-13.3 through funding appropriated to it as the Boston Equity Fund. The Office of Emerging Industries shall make the funds in the Boston Equity Fund available to support Equity Applicants and Licensees, as defined by the Equity Program, and to establish and operate a cannabis business in the City of Boston. It is anticipated that the initial appropriation should be an amount equal to One

Hundred Percent (100%) of revenue collected by the City under the Three percent (3%) gross sales revenue fee established in the Marijuana Host Community Agreements (HCA), up to \$1,000,000 (one million dollars). Subject to appropriation, once an aggregate initial amount of \$1,000,000 (one million dollars) has been deposited into the Boston Equity Fund, it is anticipated that the Boston Equity Fund shall be credited with an amount equal to one half of one percent (0.5%) of gross annual HCA revenue until 2024 or upon the Boston Equity Fund reaching \$5,000,000 (five million dollars), whichever occurs first.

#### **8-13.12 Conditions**

Licenses for Marijuana Establishments shall only be valid so long as each entity signs a Host Community Agreement with the City of Boston, receives a Final License from the Cannabis Control Commission and receives a license from the Cannabis Board within twelve months and their licensure with 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 Cannabis Board and the execution of a new Host Community Agreement with the City of Boston.

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

The Cannabis Board may modify, suspend, or revoke any license or fine any license owner for just cause, after reasonable notice and a hearing. The Board shall, within six months of initial appointment, publish and post electronically a written policy clarifying activities or business practices and any other such causes that may subject a license holder to scrutiny, changes to their license or license suspension, and may update such policy at the Board's discretion. Unless otherwise specified, each license shall expire annually after the issuance of such license. Licenses must be renewed annually by the Board.

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

The Office of Economic Development shall publish and maintain an online registry of applicants and licensees under this section, the applicant or licensees current status in the approval process, any close associates, any controlling persons, and any investors in the business, any management agreements entered into, the type(s) of license(s) held or applied for by each establishment, the owner(s) name(s), the physical address(es) of operation, and whether the applicant or licensee is a participant in the City's equity program. The registry shall include currently licensed applicants as well as all pending applicants. The registry shall be accompanied by a map, showing the locations of licensed establishments.

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

The Office of Economic Development 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: November 20, 2019





## CITY OF BOSTON IN CITY COUNCIL

### AN AMENDMENT TO THE ORDINANCE ENSURING EQUITABLE REGULATION OF THE CANNABIS INDUSTRY IN THE CITY OF BOSTON

- WHEREAS:** In November 2019 the Boston City Council passed An Ordinance Establishing Equitable Regulation of the Cannabis Industry in the City of Boston; *and*
- WHEREAS,** That Ordinance created the Boston Cannabis Board with the intention that the Board would have regulatory and siting authority over the marijuana industry in Boston; *and*
- WHEREAS,** Current codes and regulations require applicants seeking to open a marijuana establishment in Boston to appear before both the Boston Cannabis Board and the Zoning Board of Appeals; *and*
- WHEREAS,** Appearing before the Zoning Board of Appeals after receiving approval from the Boston Cannabis Board can take months, which is an undue burden on the applicants; *and*
- WHEREAS,** The Zoning Board of Appeals has already denied multiple applicants that have previously been approved by the Boston Cannabis Board, potentially exposing the City to legal action; *and*
- WHEREAS:** The Cannabis Control Commission has established a three year window during which licenses for delivery-only businesses will be exclusively available to Certified Economic Empowerment Applicants and Social Equity Program Participants; *and*
- WHEREAS:** The Ordinance as currently written makes no distinction between delivery companies and retail dispensaries for the purposes of the 1:1 equity ratio; *and*
- WHEREAS:** The first few years of the marijuana industry in Boston will be key to ensuring the City does not face the same inequities in this industry; **NOW THEREFORE BE IT ORDAINED:** By the Boston City Council, amended as follows:

#### SECTION 1.

The City of Boston Code, Ordinances, Chapter 8, Section 13, is hereby amended as follows:

**8-13.3 Boston Equity Program.** This section shall be stricken and replaced with the following:

An applicant shall be designated by the Boston Cannabis Board as an equity applicant if at least 51% of its 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 Boston Cannabis Board, for at least 5 of the last 10 years.
2. A person who has a past arrest or conviction for the possession, sale, manufacturing, or cultivation of Marijuana between 1971 and 2016, who has been a resident of Boston for the past 5 years; OR a person who is the child of a person with a past arrest or conviction for the possession, sale, manufacturing, or cultivation of Marijuana between 1971 and 2016, who has been a resident of Boston for the past 5 years.
3. A person who has resided in the City of Boston for at least the past 7 years.
4. A person who is of Black, African American, Hispanic, Latino, Asian, or Indigenous descent.
5. A person whose annual household income is at or below 100% of the area median income.
6. A person who has been certified by the Cannabis Control Commission as an Economic Empowerment Applicant or is a participant in the Cannabis Control Commission's Social Equity Program and is a resident of Boston for at least one of the last three years.
7. A person who is a former member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard and Space Force) who served on active duty and was discharged under conditions which were other than dishonorable.

The Office of Emerging Industries shall establish a program, known as the "Boston Cannabis Equity Program," to offer equity applicants services, which may include:

1. Technical assistance with business operations, including the development of business plans.
  2. Technical assistance recruiting employees.
  3. Guidance and assistance through the application process.
  4. Technical assistance with legal compliance.
  5. Accounting and tax preparedness assistance.
  6. Best practices for operating in the marijuana industry.
  7. Technical assistance with store security.
  8. Technical assistance identifying and raising funds and capital and identifying vendors.
- An applicant or licensee shall only be eligible for the benefits of the Boston Cannabis Equity Program if they continue to meet the above conditions.

The City of Boston shall maintain an equal or greater number of retail dispensary equity applicant licensees to retail dispensary licensees who do not qualify as equity applicants.

The City shall maintain the same equity to non-equity ratio for cultivation licenses.

**8-13.4 Boston Cannabis Board.** This section shall be stricken and replaced with the following:

The Mayor shall establish a Cannabis Board. This Board shall be made up of seven members: one member with experience with the City's licensing and regulation of businesses, one member with experience in public health policy, one member with experience in public safety, one member with experience in organized labor or workers' rights, one member with experience in economic development, one member with experience in urban planning or land use, and one member with experience in a leadership role within a neighborhood association in Boston.

No member of the Boston Cannabis Board may be a close associate, controlling person, or investor in a business that holds, is seeking, or intends to seek a license from the Board.

Board members shall receive annual ethics training and shall provide a financial disclosure statement on an annual basis to ensure compliance with the above conflict of interest provisions.

**8-13.6 Application Requirements.** This section shall be amended by adding the following language to the end of the section as currently written:

9. No retail applicants that are within a half mile of another licensed retail marijuana establishment shall be scheduled for a hearing before the Board until they provide the following:

1. Applicant's statement explaining in particularity why the Applicant should be granted a License despite the proximity to another establishment addressing the following:
  - a. Special circumstances or conditions that apply to the proposed location;
  - b. Reasons of practical difficulty and substantial hardship explaining why the proximity to another applicant should not prevent the BCB from granting a License. Self-created difficulty or the financial viability of the proposal or site shall not be considered as a practical difficulty or substantial hardship;
  - c. How the BCB's grant of a License would not negatively impact the surrounding neighborhood
2. Documentation of support which may include letters of support from community members, letters of support from community organizations, letters of support from direct or

indirect abutters, and letters of support from elected officials or their respective representatives. The BCB must receive a minimum of three (3) letters of support.

10. In cases where there are two or more licensed retail establishments within a half mile radius of a proposed site, retail applicants shall be subject to heightened scrutiny and a rebuttable presumption against the proposed location.

**8-13.8 Criteria.** This section shall be stricken and replaced with the following:

The City shall grant licenses with the goal of ensuring that licenses are granted with respect to equity, quality, and community safety. Licensees shall be expected to comply with the laws and regulations of the Commonwealth of Massachusetts and the City of Boston. Applications shall be evaluated based on the Applicant's score as follows:

Applications shall be evaluated based on the Applicant's:

1. Diversity and Inclusion Plan - 25%
2. Location - 25%
  - a. Distance from a licensed retail marijuana establishment.
  - b. Residential and commercial density near the site.
  - c. Distance from schools, social services, or treatment centers.
  - d. Access to public transportation.
  - e. Accessibility and amount of on-site parking.
3. Employment Plan - 20%
  - a. Plan for employment of Boston residents.
  - b. Plan for employment of minorities and women.
  - c. Plan for offering competitive wages and benefits for local residents.
  - d. Plan for employment of individuals with criminal records.
4. Community Feedback/Public Support - 20%
  - a. Letters of support from local elected officials.
  - b. Letters of support from local community organizations.
5. Safety and Security - 10%
  - a. Plan for on-site security personnel.
  - b. Plan for building and product security.
  - c. Plan for protecting youth from accessing the product.
  - d. Plan for the transportation and delivery of the product.
  - e. Plan for the transportation of monies to and from the site.

## **SECTION 2. Effective Date**

This ordinance shall be effective upon passage. If subsequent change in the zoning code should remove the need for a zoning variance for applicants who received conditional approval for a

