

**CITY OF SOMERVILLE  
ORDINANCE NO. 2020-\_\_\_\_\_**

**In City Council: \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 2-221 OF THE  
SOMERVILLE CODE OF ORDINANCES, 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, The City of Somerville Code of Ordinance establishes regulations for adult-use marijuana in Section 2-221; and,

WHEREAS, This Council seeks to update this ordinance to further improve the licensing process for adult-use marijuana,

THEREFORE, Be it ordained by the City Council, in session assembled, that the Code of Ordinances of the City of Somerville, Section 2-221. Adult Use Marijuana Licenses is hereby amended, by adding the underlined language and deleting the struck-through language to read as follows:

**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.):~~

Close Associate means a Person who holds a relevant managerial, operational or financial interest 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, operations or finances of a Marijuana Establishment, an MTC or Independent Testing Laboratory licensed under 935 CMR 500.000. A Close Associate is deemed to be a Person or Entity Having Direct or Indirect Control.

Marijuana Establishment means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness,

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.

*Persons or Entities Having Direct Control* means any person or entity having direct control over the operations of a Marijuana Establishment, which satisfies one or more of the following criteria:

- (a) An Owner that possesses a financial interest in the form of equity of 10% or greater in a Marijuana Establishment;
- (b) A Person or Entity that possesses a voting interest of 10% or greater in a Marijuana Establishment or a right to veto significant events;
- (c) A Close Associate;
- (d) A Person or Entity that has the right to control or authority, through contract or otherwise including, but not limited to:
  - 1. to make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments;
  - 2. to appoint more than 50% of the directors;
  - 3. to appoint or remove Corporate-level officers or their equivalent;
  - 4. to make major marketing, production, and financial decisions;
  - 5. to execute significant or exclusive contracts; or
  - 6. to earn 10% or more of the profits or collect more than 10% of the dividends.

*Persons or Entities Having Indirect Control* means any person or entity having indirect control over operations of a Marijuana Establishment. It specifically includes any person with a controlling interest in an indirect holding or parent company of the applicant, and the chief executive officer and executive director of those companies, or any person or entity in a position indirectly to control the decision-making of a Marijuana Establishment.

## 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~~ **four** years from the initial 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~~ **four** year priority period, the Licensing Commission shall only issue a license to an applicant in Group B if, after at the time of issuance, there will be an equal or greater number of issued licenses held by entities that were licensed as applicants from Group A. ~~Two~~ **Four** 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 a~~ Marijuana Retailer licenses to a non-priority applicants if, at the time of issuance, there would not be an equal or greater number of licenses that ~~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, provided that the Host Community Agreement application was submitted on or before May 1, 2020;  
or,
- 3) Cooperatively owned entities.

In order to be considered a priority applicant in Group B, the person(s) or entity applying must meet at least one of the following criteria:

- 1) Owned by a Somerville resident(s) or entities with a majority (at least 50%) of its ownership made up of Somerville residents, provided that the Host Community Agreement application was submitted after May 1, 2020; or,
- 2) A Registered Marijuana Dispensary ~~currently~~ operating within the City of Somerville on the initial date of passage of this Ordinance, 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 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. **Applications shall be posted on line, subject to appropriate redactions under applicable public records law.** The application shall consist of the following materials:

1. ~~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.

2. Documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control. The applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity.
3. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment must be identified in the documentation as the entity that has the property interest. If the Marijuana Establishment does not own the proposed address, the applicant shall submit information identifying the property owner.
4. Identification of any person or entity that provides initial capital or loans to establish or operate the Marijuana Establishment, the amount of the loan or initial capital, any terms and conditions of repayment, and the recipient of such initial capital or loan.
5. Any additional specific requirements that must be submitted to the CCC pursuant to 935 CMR 500.101 for Pparticular 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 if applying for that type of Marijuana Establishment. 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:

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President  
City Council