

6.08.070 LICENSING OF MARIJUANA ESTABLISHMENTS

A. Purpose and Intent: This ordinance sets forth the local licensing process applicable to any Marijuana Establishment intending to operate and/or which is granted a license to operate within the City of Malden. This licensing process is established to regulate sales, cultivation, testing, manufacture, research and transportation of marijuana within the City of Malden, in accordance with the provisions of Mass. Gen. Laws ch 94G and the provisions of 935 CMR 500, and specifically those provisions conferring authorizations, approvals and enforcement upon the local licensing authority for the City of Malden. The purpose of this ordinance is to establish the local licensing authority and local licensing process to ensure safety, compliance and to minimize potential adverse impact Marijuana Establishments may have on adjacent properties and residents of the City of Malden. This Ordinance shall not be construed to supersede any Massachusetts or federal laws or regulations governing the sale and distribution of narcotic drugs.

B. Definitions:

Applicant: Any person or party, individual, corporation, company, or other entity seeking to operate a Marijuana Establishment in the City of Malden.

Application Packet of Intent: The documentation and information requested and required to be filed with the Cannabis Licensing and Enforcement Commission in accordance with the provisions of this ordinance and consistent with the requirements of 935 CMR 500.101(1)(a) for the Cannabis Licensing and Enforcement Commission to provide comprehensive consideration.

Cannabis Licensing and Enforcement Commission: The City of Malden local licensing authority responsible for reviewing applicants and applicant packets, and determining approvals, denials, terms and conditions, and annual license renewal applications. The CLEC shall enforce the provisions of this ordinance, the terms contained within the Special Permit and Host Community Agreement, and any Rules and Regulations that the CLEC may from time to time enact, adopt and amend. Members of the CLEC shall not be employed by, be hired by, own or otherwise benefit directly or indirectly from the growing, distribution or sale of marijuana.

Licensee: A Marijuana Establishment which meets all City of Malden licensing requirements, obligations, permitting and approvals in order to operate within the City of Malden, and has also met all licensing requirements, obligations and approvals and obtained a properly issued license from the Massachusetts Cannabis Control Commission confirming the Marijuana Establishment meets all applicable statutory and regulatory requirements to operate a Marijuana Establishment.

Marijuana Establishment: Any licensed operator engaged in retail sales of marijuana, marijuana cultivators, independent marijuana testing laboratories, marijuana product manufacturing, research facilities and marijuana transporters, all as defined by the Massachusetts Cannabis Control Commission at 935 CMR 500.002.

Prospective Licensee: Any prospective Marijuana Establishment seeking to locate a Marijuana Establishment in the City of Malden which is currently seeking licensing with the Massachusetts Cannabis Control Commission or has been granted provisional license by the Massachusetts Cannabis Control Commission.

Special Permit: The zoning special permit required to be issued to a Marijuana Establishment in accordance with MCC 12, as further amended by City Council Paper 283 of 2018.

C. Types and Limitation on Licenses to be Issued:

1. The following license types shall be authorized under this ordinance: Independent Testing Laboratory, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Research Facility, Marijuana Transporters and Marijuana Retailer all as defined by the Massachusetts Cannabis Control Commission at 935 CMR 500.002.
 2. The number of marijuana retailer licenses shall be limited to 20% of the number of off premises all liquor licenses (commonly known as 'package stores') issued pursuant to Mass. Gen. Laws ch 138 § 15. In such a case where 20% of the off premises liquor licenses results in a fractional number, the maximum number of licenses shall be the next greater whole number.
- D. Initial License Application Process: Applicants interested in opening a Marijuana Establishment within the City of Malden shall file an application with the Cannabis Licensing and Enforcement Commission in a form and with supporting documents as promulgated by the CLEC along with a \$200 application fee.
1. For the initialing licensing period, the CLEC shall establish an initial deadline for applications. The CLEC will review all applications submitted by the initial deadline and shall approve a maximum of five (5) Marijuana Retailer applications to proceed to host a community meeting and subsequently apply for a Special Permit. For at least one of the licenses, preference shall be given to an applicant where at least 51% of the business is owned by a resident of Malden, who has been a resident for each of the past five years, or to an applicant who would qualify for the Cannabis Control Commission Economic Empowerment Priority Review or the Social Equity Program or a minority owned business as designated by the Commonwealth of Massachusetts. The CLEC may approve fewer than five (5) Marijuana Retailer applications, and if so, shall continue to review applications on a rolling monthly basis until the limit of five (5) Marijuana Retailer licenses is reached. The CLEC shall do a review of the application, the proposed applicant and location. The CLEC shall vote, by a simple majority, to permit or deny the applicant being authorized to host a community meeting and apply for a Special Permit as outlined in MCC 12 and further as contained in paper #283 of 2018. The CLEC shall initially evaluate applications based on the following, provided that the CLEC shall consider any additional factors it determines are in the best interest of the City of Malden.
 - a. The experience of the proposed applicant in the Marijuana industry or a similar industry
 - b. The support of the Ward Councilor
 - c. The overall financial strength of the applicant and the overall strength of the business plan
 - d. The proposed location being located within an area zoned for such use and being geographically diverse from other established, permitted or proposed establishments
 - e. Managers, directors, officers, investors and others related to the establishment are free of any disqualifying criminal convictions
 2. Applicants who receive a successful initial screening from the CLEC shall follow the general steps as outlined below:
 - a. Host a Community Meeting for the proposed location as outlined in CMR 500.101(1)(a).9, as modified by MCC 12.32.020 Paragraph K, and further in compliance with MCC 12.12.190 Paragraph I,5.

- b. Within 60 days of the completion of the Community Meeting, submit a Use Permit application to the Building Commissioner who will receive it on behalf of the Malden City Council. The application and supporting documentation requirements for the use permit shall be as prescribed by the Malden City Council and shall be provided to the applicant by the Building Commissioner.
- c. Upon successful vote of the issuance of the Special Permit, applicant shall enter into a host community agreement (HCA) with the City of Malden containing at least the minimum criteria as outlined in Paragraph E.
- d. Applicant shall obtain from the City a Host Community Agreement Certification Form along with a Community Outreach Meeting Attestation Form in order that the applicant may submit a completed application to the CCC.
- e. Applicant shall, simultaneous with the application to the CCC, provide 8 completed applications to the CLEC.
- f. Upon receipt of a Provisional License from the CCC as outlined in CMR 500.103(1), the CLEC shall schedule a public meeting to review the application in its entirety for the issuance of the local license required for operation. The CLEC shall review the applicant in its entirety and may consider information not previously known at the time of the issuance of the Special Permit or the execution of the HCA in determining to issue or deny the license required for operation.
- g. With successful receipt of the local license, and payment of the first annual \$3,500 fee, and upon issuance of the Final License from the CCC, the Licensee shall have met all requirements for licensing to do business in the City of Malden.

E. Minimum Criteria for Host Community Agreement: Host community agreements as proposed by the Applicant shall contain the following minimum criteria.

1. Operating Conditions:

- a. Security plan to be reviewed and approved by Police Chief
- b. Traffic management plan
- c. Use of electronic means of verifying customer age
- d. Termination/Cessation of operating terms outlined

2. Financial Conditions:

- a. Community Impact Fee of 3%
- b. Charitable donation requirement: \$25,000 yearly
- c. Annual reporting of financials to the CLEC
- d. Company vehicles must be registered in Malden

3. Community Support:

- a. Local hiring preference
- b. Commitment to use of local vendors

4. Health Related:

- a. Support for local educational programs on public health and drug abuse prevention

F. Annual License Renewal Process:

1. To continue to operate in the City of Malden, each licensed and Marijuana Establishment shall as a condition of its license file an application for renewal annually on a form prescribed by the CLEC together with the following:
 - a. Annual renewal determination received from CCC demonstrating continued compliance with 105 CMR 725.000
 - b. A copy of the active HCA with the City of Malden, provided that if the current HCA is to expire during the term of renewal, licensee shall enter a new HCA with the City of Malden prior to the renewal of the local license.
 - c. \$3,500 annual renewal fee
2. The CLC shall conduct a review of compliance with the Host Community Agreement and Special Permit and shall have the authority to place conditions on the license to either bring the licensee in compliance with the HCA or special permit; further the CLC shall have the authority to place additional requirements on the license renewal that are operational in nature and intended to address operational issues that have arisen since initial licensure.
3. The Cannabis Licensing and Enforcement Commission shall review completed applications for renewal within thirty days. No license shall be renewed for operation if a Marijuana Establishment fails to timely submit a completed application including all requisite documentation.

G. License Transfer Prohibited: A Marijuana Establishment shall have no ability to transfer a license to a new operator.

H. Prohibition on Holding More Than One License: No person or entity shall retain ownership or any beneficial interest in more than one licensed Marijuana Establishment in the City of Malden.

I. Failure to Operate/Ceasing to Conduct Business: A Marijuana Establishment shall notify the Cannabis Licensing and Enforcement Commission no more than one business day after a Marijuana Establishment ceases to operate; when any Massachusetts registration or license is revoked, void, suspended fails of renewal, or is deemed no longer suitable to operate a marijuana Establishment by the Massachusetts Cannabis Control Commission. Failure to Operate or Cease to Conduct Business shall not alleviate a Marijuana Establishment from compliance with its financial obligations under a Community Host Agreement.

J. Enforcement and Compliance Requirements:

1. Local Requirements: All Licensees and Prospective Licensees shall be required to comply with the procedures and provisions set forth herein, including those as amended from time to time hereafter. If approved by the Cannabis Licensing and Enforcement Commission to operate a Marijuana Establishment within the City of Malden, all Licensees shall be required to comply with annual renewal provisions set forth herein. All Licensees shall be required to comply with any procedures, rules, regulations and conditions issued by the Cannabis Licensing and Enforcement Commission, and all other code, regulatory, and/or permitting requirements applicable to the Marijuana Establishment including any conditions issued by the Cannabis Licensing and Enforcement Commission or other City of Malden permit granting authority. The

Cannabis Licensing and Enforcement Commission shall specifically have the authority to enforce those conditions and requirements contained within the Special Permit and Host Community Agreement and shall set forth the penalties for non-compliance with such, which may include fines up to license suspension or revocation.

2. Commonwealth of Massachusetts Requirements: All Licensees shall be required to comply with the provisions set forth in Mass. Gen. Laws ch 94G and 935 CMR, including those as amended from time to time hereafter. All Licensees shall be required to comply with any procedures, rules, regulations and conditions issued by the Massachusetts Cannabis Control Commission.

HISTORY

Amended by Ord. [385-19](#) on 2/12/2020

Amended by Ord. [Paper 285-21](#) on 6/29/2021