



**City Council**  
36 Court Street  
Springfield, MA 01103

Meeting: 11/19/18 07:00 PM  
Department: City Council  
Category: Local Law  
Prepared By: Tasheena Davis  
Initiator: Tasheena Davis  
Sponsors: Walsh, Edwards, Lederman, Gomez, Hurst  
DOC ID: 4820 A

**SCHEDULED**

**ORDINANCE (ID # 4820)**

## **Marijuana-Adult Use and Establishments**

AMENDING THE REVISED ORDINANCES OF THE CITY OF SPRINGFIELD, 1986, AS AMENDED, BY ADDING CHAPTER 245 THEREOF

ORD. NO. \_\_\_\_

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, AS FOLLOWS:

Chapter 245, **Marijuana-Adult Use and Establishments**, is hereby created by adding the following:

### **Article I: Adult Use of Marijuana**

#### **§ 245-1 Purpose.**

The purpose of this Article is to ensure the safe possession and use of marijuana by persons 21 years of age and over within the City of Springfield.

#### **§ 245-2 Definitions.**

For the purpose of this article, the following definitions shall be applicable:

#### **Marijuana**

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 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.

#### **Open Container**

Open Container shall mean that the package containing marijuana or marijuana products has its seal broken or from which the contents have been partially removed or consumed.

#### **Passenger Area**

The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position. Passenger Area shall not

include a motor vehicle's trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

**§245-3 Marijuana Sales to Persons Under the Minimum Legal Sales Age Prohibited.**

- A. No person shall sell marijuana or permit marijuana, as defined therein, to be sold to a person under the minimum legal sales age of 21; or give marijuana products as defined herein, to a person under the minimum legal sales age of 21.
- B. Each person selling or distributing marijuana products as defined herein, shall verify the age of the purchaser by means of valid government-issued photographic identification containing the bearer's date of birth.
- C. All retail sales of marijuana products shall be face-to-face between the seller and the buyer and occur at the permitted location unless and until delivery of adult-use marijuana products is authorized and licensed under state regulation and then, in strict compliance with all applicable rules and regulations.

**§245-4 Enforcement-violations and penalties.**

- A. No person shall cultivate or process marijuana plants if the plants are visible from a public place without the use of binoculars or optical aids. The penalty for a violation of this section shall be a fine in an amount of \$300.00 and forfeiture of the marijuana.
- B. No person shall cultivate or process marijuana plants outside an area that is equipped with a lock or other security device. The penalty for a violation of this section shall be a fine in an amount of \$100.00 and forfeiture of the marijuana.
- C. No person shall possess more than one (1) ounce of marijuana or marijuana products within the person's place of residence unless the marijuana and marijuana products are secured by a lock. The penalty for a violation of this section shall be a fine in an amount of \$100.00 and forfeiture of the marijuana.
- D. A person that possesses more than one (1) ounce of marijuana or marijuana products but less than two (2) ounces of marijuana or marijuana products within the person's place of residence is subject to a fine of \$100.00 and forfeiture of the marijuana in excess of the allowable limits.
- E. A person that cultivates more than six (6) but not more than twelve (12) marijuana plants within the person's place of residence is subject to a fine of \$100.00 and forfeiture of the marijuana in excess of the allowable limits.
- F. No person shall, upon any way or in any public place which the public has right of access, possess an open container or marijuana or marijuana products in the passenger area of any motor

vehicle. The penalty for a violation of this section shall be a fine in an amount of \$100.00 and forfeiture of the marijuana.

- G. No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. The penalty for violation of this section shall be \$100.00.

## **Article II: Marijuana Establishment Requirements.**

### **§ 245-5 Definitions.**

For the purpose of this article, the following definitions shall be applicable:

#### **Marijuana Establishment**

A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in 935 CMR 500.00.

#### **Cannabis Control Commission**

Massachusetts agency with authority to implement the state marijuana laws including but not limited to ch. 55 of the Acts of 2017, MGL c. 94G, 935 CMR 500.00. The Commission has the authority to license and regulate adult use marijuana establishments.

#### **Marijuana Cultivator**

An entity licensed to cultivate, process and package marijuana and to deliver and transfer marijuana to other marijuana establishments, but not to consumers.

#### **Marijuana Establishment Agent**

Employee, volunteer or agent of a Marijuana Establishment who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing or dispensing of marijuana.

#### **Marijuana Product Manufacturer**

An entity licensed to obtain, manufacture, process and package marijuana and marijuana products and to deliver marijuana and marijuana products to other marijuana establishments, but not to consumers.

#### **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 consumers.

#### **Marijuana Testing Facility**

An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

#### **Marijuana Transporter**

An entity licensed to purchase, obtain, and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments only.

### §245-6 Marijuana Establishment Requirements.

In addition to the requirements set forth by the Massachusetts Cannabis Control Commission in 935 CMR 500.00, a Marijuana Establishment shall obtain the following:

- A. **Community Outreach Meeting.** Each Marijuana Establishment must hold a Community Outreach Meeting within the neighborhood of the proposed site, when practicable. If no viable site is available, the Community Outreach Meeting will be held at Springfield City Hall on 36 Court Street in Springfield, MA.
- B. **Host Community Agreement.** Each Marijuana Establishment shall execute a Host Community Agreement with the City of Springfield. An application form must be filled out expressing the desire to enter into a Host Community Agreement. After approval by the Mayor's Office, Host Community Agreements must be approved by the City Council.
  1. Each Host Community Agreement Application shall be reviewed by an advisory committee consisting of the following eight (8) members:
    - i. The Mayor or his/her designee(s);
    - ii. The Health Commissioner or his/her designee;
    - iii. The City Solicitor or his/her designee;
    - iv. The Police Commissioner or his/her designee;
    - v. The Code Enforcement Commissioner or his/her designee;
    - vi. The Director of the Department of Public Works or his/her designee;
    - vii. The Director of the Planning Department or his/her designee; and
    - viii. The Chief Administrative and Finance Officer or his/her designee.
  2. An application for a Host Community Agreement shall be submitted to the Office of Planning and Economic Development on forms furnished by it that shall set forth the name of the applicant, contact information for the applicant, the name of the business entity operating the Marijuana Establishment, the Marijuana Establishment address, proof in the form of an executed lease or deed of the right to use the premises, the names and addresses of designated representatives such as shareholders, partners, managers and members, and other such information as the City may require.
  3. Applications for a Host Community Agreement will not be reviewed until the application is complete. Complete Host Community Agreement applications will be reviewed within 30 days of receipt.

4. No Host Community Agreement will be reviewed until a Community Outreach Meeting has been held by the applicant.
5. A completed Criminal Offender Record Information Acknowledgement Form shall be submitted with the Host Community Agreement application for every manager and employee of the Establishment.

**C. Special Permit Application.** A Tier 3 special permit shall be required for operation of a Marijuana Establishment. The approval of a special permit for any Marijuana Establishment is based on the discretion of the City Council.

**D. Building Permit.** No Marijuana Establishment shall be issued a building permit from the Department of Inspectional Services prior to obtaining all required permits and licenses, including but not limited to, a Tier 3 special permit from the Springfield City Council and a provisional license from the Cannabis Control Commission.

**§245-7 Department of Health & Human Services Requirements.** Each Marijuana Establishment and Marijuana Agent shall obtain all applicable operating permits from the Department of Health & Human Services including but not limited to:

**A. Marijuana Operating Permit.**

1. No person shall sell, cultivate, deliver or otherwise commercially distribute marijuana products, as defined herein, within the City of Springfield without first obtaining a Marijuana Operating Permit issued annually by the Department of Health and Human Services. Only owners of establishments with a permanent, non-mobile location in Springfield are eligible to apply for an operating permit at the specified location.
2. A marijuana delivery-only establishment, if authorized and licensed under state regulation shall not be required to have a permanent, non-mobile location, but shall have an in-state permanent business office address and contact information available. Upon request, the establishment must share information about the current location and destination of its employees with the Department of Health and Human Services.
3. No person shall gift marijuana or marijuana products to a consumer contingent upon the sale of any other product.

4. As part of the Marijuana Operating Permit application process, the applicant will be provided with the Department of Health and Human Services regulation and any related City Ordinance(s). Each applicant is required to sign a statement declaring that the applicant has read said regulation and corresponding ordinance(s) and that the applicant is responsible for instructing all employees who will be responsible for marijuana sales on federal, state and local laws regarding the sale of marijuana and this regulation.
5. Each applicant who sells, cultivates, delivers or otherwise distributes marijuana is required to provide proof of a current license issued by the Cannabis Control Commission before a Marijuana Operating Permit can be issued.
6. A separate Marijuana Operating Permit, displayed conspicuously, is required for each marijuana establishment. The fee for a Marijuana Operating Permit shall be determined by the Department of Health and Human Services annually.
7. A Marijuana Operating Permit is non-transferable. A new owner of a marijuana establishment must apply for a new permit.
8. Issuance of a Marijuana Operating Permit shall be conditioned on an applicant's consent to unannounced, periodic inspection of his/her marijuana establishment, including any business conducted off-site, to ensure compliance with this regulation.
9. A Marijuana Operating Permit will not be renewed if the permit holder has failed to pay all fines issued and the time to appeal the fines has expired and/or the permit holder has not satisfied any outstanding permit suspensions.
10. A Marijuana Operating Permit may be subject to non-renewal if the establishment has sold a marijuana product to a person under the minimum legal sales age two times within the previous permit year and the time to appeal has expired. The permit holder may request a hearing pursuant to this regulation prior to non-renewal.
11. No person under the minimum legal sales age shall be permitted to enter an establishment with a Marijuana Operating Permit except those individuals in possession of a registration card demonstrating that the individual is a registered qualifying patient with

the Medical Use of Marijuana Program if the establishment is co-located with a medical marijuana treatment center.

12. A storefront marijuana retailer shall sell primarily marijuana and marijuana accessories. The sale of other products or offer of other services must be merely incidental.
13. A storefront marijuana retailer is prohibited from applying for or otherwise holding a tobacco sales permit. A storefront marijuana retailer is also prohibited from holding a liquor license or selling or distributing any alcoholic beverage in any form.
14. All Marijuana Establishments shall submit the final security plan to the Department of Health & Human Services and the Springfield Police Department prior to operation.
15. All Marijuana Operating Permits expire annually from the date of first issuance.

#### **B. Marijuana Agent Permit**

1. No Marijuana Establishment agent shall sell, cultivate, deliver or otherwise commercially distribute marijuana without first obtaining a Marijuana Agent Permit, the fee for which shall be determined by the Department of Health and Human Services.
2. As part of the Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and the corresponding City Ordinance(s).
3. Each applicant who sells, cultivates, delivers or otherwise distributes marijuana is required to provide proof of a current license issued by the Cannabis Control Commission before a Marijuana Agent Permit can be issued.

4. Each applicant is required to provide proof by means of valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years of age or older.
  5. All Permits expire annually on the date of first issuance and are renewable.
  6. No Permit issued under this regulation may be transferred to any other person or entity.
- C. Any Marijuana Establishment who violates this section shall be subject to a fine in the amount of \$1000.
- D. Any or Marijuana Agent who violates this section shall be subject to a fine in the amount of \$\_\_\_.
- E. As an alternative to initiating criminal proceedings, violations of this chapter may be enforced in the manner provided in MGL c. 40, § 21D, by the Springfield Department of Health and Human Services Director or its agents.
- F. Any citizen who desires to register a complaint under this section may request that the Director of Health and Human Services or its designee initiate an enforcement action.

#### §245-8 Reporting Requirements.

- A. Building/Code Enforcement Annual Report.** Marijuana Establishments shall file an annual report to the Building Commissioner and Zoning Administrator no later than January 31st of each year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the special permit.
- B. Building/Code Enforcement Annual Review.** Any operating Marijuana Establishment within the City of Springfield shall be inspected annually by the Building Commissioner or his/her designee(s), to ensure compliance with this Section and with any conditions imposed by the special permit.
- C. Security Plan.** All Marijuana Establishments shall submit final security plans to the Springfield Police Department and the Springfield Fire Department prior to operation. Any updates in security plans shall be submitted forthwith.
- D. Establishment Agents.** Each Marijuana Establishment shall submit completed Criminal Offender Record Information checks to the Springfield Law Department for each manager, operator and employee working in the Establishment prior to operation. Contact information for each manager and operator of the Marijuana Establishment shall be given to the City Law Department. Updated contact information shall be submitted within 48 hours of any changes.



- E. State Licensing.** Upon receipt from the Cannabis Control Commission a Marijuana Establishment shall submit the provisional and final license to the Springfield Law Department. No operation of a Marijuana Establishment shall begin prior to receipt of a final license from the Cannabis Control Commission.

Approved as to form,

Associate City Solicitor

#### Chapter 245-Marijuana-Adult Use and Establishments

##### **HISTORY:**

**10/15/18      City Council                      FIRST STEP**

Councilor Hurst spoke in support of the ordinance.

Councilor Walsh expressed concerns about imprisonment being one of the penalties for violation of the ordinance.

Councilor Hurst stated that imprisonment was removed as a potential vehicle.

Councilor Hurst moved to amend section 245-4(F) to institute a \$100.00 fine. Seconded by Councilor Fenton.

Councilor Gomez asked some questions about the amendment.

The motion passed by voice vote.

Councilor Edwards moved to amend section 245-6(B) to insert "after approval by the mayor's office all host community agreements must be approved by the city council". Seconded by Councilor Fenton.

The motion passed by voice vote.

Councilor Fenton moved to amend section 245-6(B)(1) to delete 6 and replace with 8. Seconded by Councilor Gomez.

The motion passed by voice vote.

Councilor Fenton moved to amend section 245-6(B)(3) to insert 30 days. Seconded by Councilor Gomez.

The motion passed by voice vote.

Councilor Fenton moved to amend section 245-6(B) to insert subsection (5) to state: "**A completed Criminal Offender Record Information Acknowledgement Form shall be submitted with the Host Community Agreement application for every manager and employee of the Establishment.**".

Seconded by Councilor Edwards.

The motion passed by voice vote.

Councilor Fenton moved to amend section 245-6(D) replace "tire" with "tier". Seconded by Councilor Ryan.

The motion passed by voice vote.

Councilor Fenton expressed about the Health and Human services Commissioner's ability to set fees.

Councilor Ryan expressed concern about basis to revoke permit.

Councilor Whitfield expressed a concern about a lack of penalties for the sale to minors.

Councilor Ramos abstained from the vote for first step.