



City Council

Hearings Meeting

~ Draft ~

36 Court Street
Springfield, MA 01103
<http://www.springfieldcityhall.com>

Anthony I. Wilson
413-787-6096

Monday, January 22, 2018

7:00 PM

Springfield City Hall -- Council Chambers

Hearings

7:00 PM Meeting called to order on January 22, 2018 at Springfield City Hall -- Council Chambers, 36 Court Street, Springfield, MA.

Attendee Name	Title	Status	Arrived
Marcus J Williams	Ward 5 Councilor	Present	
E. Henry Twiggs	Ward 4 Councilor	Present	
Kenneth E. Shea	Ward 6 Councilor	Present	
Adam Gomez	Ward 1 Councilor	Late	
Kateri B. Walsh	At-Large Councilor	Present	
Michael A. Fenton	Ward 2 Councilor	Present	
Jesse Lederman		Present	
Melvin A. Edwards	Ward 3 Councilor	Present	
Thomas M. Ashe	At-Large Councilor	Present	
Justin Hurst	At Large Councilor	Late	
Timothy Ryan		Present	
Timothy C. Allen	Ward 7 Councilor	Present	
Orlando Ramos	President- Ward 8 Councilor	Present	

Moment of Silence - Pledge of Allegiance

1. Petition (ID # 4383)

Petition to Keep, Store, Use and Sell Petroleum at 700-714 State Street

COMMENTS - Current Meeting:

Hamilton Ramos, a representative of Pride Gas Stations, spoke in favor of the application.

ATTACHMENTS:

- 700-714 state street (PDF)

RESULT: PASSED BY VOICE VOTE

Petitions

1. Petition (ID # 4384)

Petition to Keep, Store, Use and Sell Petroleum at 1110 Wilbraham Road

COMMENTS - Current Meeting:

Hamilton Ramos, a representative of Pride Gas Stations, spoke in favor of the application.

ATTACHMENTS:

- 110 wilbraham rd (PDF)

RESULT: PASSED BY VOICE VOTE
--

Special Permits

2. Petition (ID # 4345)

For a Special Permit for Motor Vehicle Sales at the Property Known as 51 Dale Street (03590-0023), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.1.

Request:	See Above
Owner:	Brylo, LLC
By:	Brylo Lora
Petitioner:	Brylo Lora
By:	Brylo Lora

COMMENTS - Current Meeting:

Brian Lora spoke in favor of the special permit. He owns the property and would like to add a new source of revenue.

No one spoke in opposition.

Councilor Lederman asked if vehicles would be stored in the location. The applicant stated that vehicles are not usually stored at the location.

The hearing was closed.

Motion to amend condition number 4 from 5 cars to 6 cars by councilor Walsh. Seconded by Councilor Fenton. Unanimously approved by voice vote.

The council unanimously adopted the following reasons for approving the special permit:

1. The specific site is an appropriate location for such a use, structure, or condition.
2. The use as developed will not adversely affect the neighborhood.
3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
4. To incorporate the Planning Staff analysis into the decision as the basis of the findings.

ATTACHMENTS:

- Dale_St_51_Formal_Tax (PDF)
- Dale_St_51_Jan_2018 (PDF)

RESULT:	ADOPTED AS AMENDED [12 TO 0]
AYES:	Williams, Twiggs, Shea, Walsh, Fenton, Lederman, Edwards, Ashe, Hurst, Ryan, Allen, Ramos
ABSENT:	Adam Gomez

3. Petition (ID # 4346)

For a Special Permit to Operate a Drive-Up Service Window at the Properties Known as 705 Liberty Street (07770-0525), SS Liberty Street (07770-0526), 695-697 Liberty Street (07770-0527) and NS Passageway (09547-0004), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 19.1(2).

Request:	See Above
Owner:	Marc Lamoureux
By:	Marc Lamoureux
Petitioner:	Salmar Realty, LLC
By:	Peter Martins

COMMENTS - Current Meeting:

Paul Karen, representing the petitioner, spoke in favor of the petition. He stated that Dunkin Donuts will build a state of the art facility at this location.

Robert Leveque, the petitioner's project engineer, spoke in favor of the petition. He explained the queuing of motor vehicles. He explained that several structures that are currently on the property will be razed.

John Sampson, from Wilbraham, spoke in favor of the petition. He stated that he owns a property right across the street from this location and he is in favor.

No one spoke in opposition.

Mike Fenton spoke in favor of the petition and explained that the hungry hill neighborhood association was in favor.

Councilor Fenton asked about the construction of pylon signs. The petitioner stated that they did plan to construct signs in the future near liberty and phoenix street. Petitioner stated that they will construct a vinyl fence.

Councilor Allen asked questions about the staking order. The petitioner stated that the stacking area will hold about 12 cars.

Peter Martins, the franchisee, spoke in favor of the project.

Councilor Williams asked about hiring from the neighborhood. The petitioner stated that their practice is to hire locally. Councilor Williams stated that her was in favor.

Councilor Lederman confirmed that there was no one living at the property that the petitioner was demolishing. He also encouraged the petitioner to create recycling facilities for consumer recycling.

Councilor Ryan confirmed that the petitioner was amenable to the conditions.

Councilor Ryan moved to add a 22nd condition to the special permit to have lobby operations from 5am to 10pm and to allow the drive through window to operate from 5am to 12am. Seconded by Councilor Fenton. The motion passed unanimously by voice vote.

The council unanimously adopted the following reasons for approving the special permit:

1. The specific site is an appropriate location for such a use, structure, or condition.
2. The use as developed will not adversely affect the neighborhood.
3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
4. To incorporate the Planning Staff analysis into the decision as the basis of the findings.

ATTACHMENTS:

- Liberty_705_Formal_Tax(PDF)
- Liberty_St_705_Jan_2018 (PDF)

RESULT:	APPROVED [UNANIMOUS]
AYES:	Williams, Twiggs, Shea, Gomez, Walsh, Fenton, Lederman, Edwards, Ashe, Hurst, Ryan, Allen, Ramos

4. Petition (ID # 4362)

For a Special Permit for Motor Vehicle Repairs and Maintenance (Tires Sales and Mounting), at the Property Known as 218 St James Boulevard (11172-0040), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.3(3).

Request:	See Above
Owner:	J.B. Camerlin Real Estate, LLC
By:	J.B. Camerlin
Petitioner:	Francisco Ortiz
By:	Francisco Ortiz

COMMENTS - Current Meeting:

Luis Ortiz, the petitioner, spoke in favor of the permit. He wants to operate a used tire business.

Brian O'connor, from El Paso street, spoke in opposition to the petition. He was concerned about the noise generated by the business and the potential clutter from storing used tires.

Mary Koski, from St. James Avenue, she stated that she heard about the proposal and the met the applicant at a neighborhood council meeting. She stated that the East Springfield neighborhood council is in opposition to this petition.

The petitioner stated that they have new machines that are quieter than older version.

Councilor Fenton asked questions about parking about the location. The petitioner stated that he believed that the parking spaces were adequate for the business. Councilor Fenton stated that he had concerns.

Phil Dromey, Director of the Office of Planning, stated that the office had several concerns with the parking. He did not believe that the petitioner had a solid plan for parking.

Jesse Lederman asked if the petitioner met with the planning department. The petitioner had not met with planning. The petitioner stated that he would not store tires outside of the building and that he has a contract with a company in Connecticut to remove discarded tires.

In response to questions from Councilor Lederman, Mr. Dromey stated that he believes that there is an electrical shop in a portion of the building.

Councilor Shea spoke in opposition to the permit.

In response to question from Councilor Lederman, the petitioner stated that he had a 6 month lease to the property and that he had never operated this type of business in the past.

In response to a question from Councilor Gomez, Mr. Koski stated the board of neighborhood council voted unanimously against the petition.

Councilor Twiggs stated that he hoped that the petitioner could would with the office of economic development to find a suitable location for his business.

Councilor Fenton spoke in opposition to the permit.

The council unanimously adopted the following reasons for denying the special permit:

1. The specific site is not an appropriate location for such a use, structure, or condition.
2. The use as developed will adversely affect the neighborhood.

3. Adequate and appropriate facilities will not be provided for the proper operation of the proposed use.
4. To incorporate the Planning Staff analysis into the decision as the basis of the findings.

ATTACHMENTS:

- St_James_Boulevard_218_Tax_Formal (PDF)
- St_James_Blvd_218_Jan_2018 (PDF)

RESULT: FAILED [0 TO 13]

NAYS: Williams, Twiggs, Shea, Gomez, Walsh, Fenton, Lederman, Edwards, Ashe, Hurst, Ryan, Allen, Ramos

Zoning Ordinances

5. Zoning Ordinance (ID # 4341)

To Amend the Springfield Zoning Ordinance by Amending Article 4, Section 4.7 by Adding Section 4.7.110, to Read as Follows and Amending Article 4, Use Table 4-4 by Adding Section 13.6:

PETITIONER:

Springfield Planning Board

ADDRESS:

City Wide

CHANGE REQUESTED:

Temporary Moratorium on Marijuana Establishments

HISTORY:

01/03/18	Planning Board	APPROVED
01/08/18	City Council	RECEIVED 1ST STEP
Next: 01/22/18		

COMMENTS - Current Meeting:

Phil Dromey, the Deputy Director of the office of planning, spoke in favor of the moratorium. Mr. Dromey stated that the cannabis control commission issued their draft regulations in December. The Commission will issue their final regulation in mid-March. He stated that the moratorium will give the city time to draft reasonable regulations. He stated that the moratorium will not prevent individuals from growing marijuana for personal use.

Councilor Edwards asked why the city needs a moratorium when other communities are implementing marijuana regulations.

Solicitor Pikula responded that the notion of a moratorium originated from the Attorney General's Office and the Pioneer Valley Planning Commission. He stated that any commercial marijuana facilities that start up before the city creates regulations will not be subject to subsequent regulations. He stated that the law department has been working diligently to understand the new marijuana laws and regulations.

Councilor Williams asked if there was ever a moratorium that lasted as long as the one that the city council is considering. Solicitor Pikula stated that he did not have an issue like the legalization of marijuana before. Councilor Williams asked if other cities and towns across the state were implementing moratoriums. Attorney Davis, from the law department, stated that there are several communities across the state that are implementing moratoriums or outright banning commercial sales of marijuana.

Councilor Shea spoke in support of the proposed moratorium.

Linda Thompson, 83 Randolph Street, spoke in opposition to the marijuana moratorium.

Frank Daley, 109 Pennsylvania Ave, stated that Holyoke has a moratorium to December 31st. He stated that he wants people to get educated about the marijuana industry.

David Mack, 1 Crescent Hill, spoke in opposition to the moratorium.

Erica Anderson, 970 Bradley Rd, spoke in opposition to the moratorium.

Sean Mullen, 82 Green Lane, spoke in opposition to the moratorium.

In response to questions from Councilor Twiggs, Solicitor Pikula stated that the statements from the U.S. Attorney has had a chilling effect on marijuana investors and banks.

In response to questions from Councilor Allen, Solicitor Pikula stated that the moratorium will not affect medical marijuana establishment or personal use.

Councilor Allen moved to have the moratorium expire on September 30th. President Ramos stated that he will entertain the motion at the close of the hearing.

In response to questions from Councilor Walsh, Solicitor Pikula stated that the City's regulations must be consistent with the state.

Councilor Lederman made a motion to send the matter to committee. Seconded by Councilor Ashe.

Councilor Twiggs spoke in opposition to the motion.

In response to questions from Councilor Hurst, Attorney Davis stated that the first 75 licenses go to 75 medical marijuana facilities. She stated that only 75 licenses will be given to each category of marijuana business.

Councilor Hurst stated that he would like to know what would happen to applicants at the Cannabis Control Commission for locations in Springfield during the moratorium.

Councilor Hurst stated that he was in favor of the motion to committee.

In response to questions from Councilor Fenton, Solicitor Pikula stated that it was his understanding that the City could not prevent the medical marijuana facility on Cottage Street from converting to a recreational facility, if the facility so chose.

Councilor Fenton spoke in opposition to the motion to Committee.

Councilor Gomez stated that the moratorium should last no longer than July 1st.

Councilor Ryan spoke in opposition to the motion to committee.

Motion for role call vote by Councilor Twiggs:

The motion to committee passed by the following vote:

1. Williams	Y
2. Twiggs	N
3. Shea	N
4. Gomez	Y
5. Walsh	N
6. Fenton	N
7. Lederman	Y
8. Edwards	Y
9. Ashe	Y
10. Hurst	Y
11. Ryan	N
12. Allen	Y
13. Ramos	N

ATTACHMENTS:

- 3194_Temporary_Moratorium_Marijuan_Establishments_2018 (PDF)
- 3194_Temporary_Moratorium_PB_Report_Jan_2018 (PDF)
- 3194_Temporary_Moratorium_Marijuana_Establishments_2018 (PDF)



City Council
36 Court Street
Springfield, MA 01103

ADOPTED

PETITION (ID # 4383)

Meeting: 01/22/18 07:00 PM
Department: City Clerk
Category: License
Prepared By: Anthony I. Wilson
Initiator: Anthony I. Wilson
Sponsors:
DOC ID: 4383

Petition to Keep, Store, Use and Sell Petroleum at 700-714 State Street

COMMENTS - Current Meeting:

Hamilton Ramos, a representative of Pride Gas Stations, spoke in favor of the application.

RESULT: PASSED BY VOICE VOTE

CITY OF SPRINGFIELD

1.a



CITY CLERK'S OFFICE

SPRINGFIELD, MASSACHUSETTS

TO THE CITY COUNCIL OF THE CITY OF SPRINGFIELD:

11-1-2017

Date

The undersigned respectfully petition your honorable body for a license to keep, store, use and sell petroleum and its products in quantities not exceeding 41,000 gal.

Gallons in Underground
(Underground or Above Ground)

(New or Existing)
(Circle One)

Location of Land: 700-714 State Street
Number Street

Nearest Cross Street: Thompson Street

Owner of Land: Pricle Limited Partnership

Number of Buildings or Other Structures to Which This Application Applies: One (Proposed)

Occupancy or Use of Such Buildings: Gas Station with Convenience Store and Drive-Thru

Total Current Capacity of Tanks: ABOVEGROUND: UNDERGROUND 41,000

Kind of Fluid to be Stored in Tanks: Gasoline ^{Class} IR 31,000 gal.; Diesel ^{Class} II 10,000 gal.

Robert F. Balduc
Signature of Applicant

Name: Robert Balduc c/o Pricle Limited Partnership

Address: 246 Cottage St 01104

Phone: 413-737-6992

Fax: 413-731-5852

APPROVED - DISAPPROVED
(Circle One)

11/6/17
Date

Joseph A. Conant
Fire Commissioner of the Fire Department

Application Fee: \$250.00

License Fee: \$ 88.00

Advertisement Fee: \$60.00

Total: \$ 398.00

CHA #80013885

RECEIVED
2017 NOV - 1 A 2:46
CITY OF SPRINGFIELD, MA

2/10

Packet Pg. 10

Attachment: 700-714 state street (4383 : Petition to Keep, Store, Use and Sell Petroleum at 700-714 State Street)

Springfield Fire Department – Fire Prev Div
605 Worthington Street
Springfield, MA 01105-1112
413-787-6410 (Voice) / 413-787-6400 TTY
413-787-6432 (FAX)

David Rivera
Fire Marshal

November 20, 2017

Springfield City Council
36 Court St.
Springfield, Ma. 01103

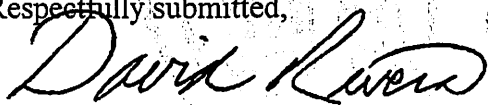
Re: Petroleum Petition

Council President Ramos,

Please accept this correspondence as the Springfield Fire Department's approval and support of the petition to store petroleum not exceeding 41,000 gallons to be stored at 700-714 State St, Pride Limited Partnership. The purpose of the storage is for a new automobile fuel service station.

Thank you for your consideration in this matter.

Respectfully submitted,



David Rivera
Fire Marshal

Cc: Kateri B. Walsh
Timothy J. Rooke
Kenneth E. Shea
Justin Hurst
Thomas M. Ashe
Melvin A. Edwards
Michael A. Fenton
Timothy C. Allen
E. Henry Twiggs
Adam Gomez
Marcus J. Williams
Bud L. Williams

Attachment: 700-714 state street (4383 : Petition to Keep, Store, Use and Sell Petroleum at 700-714 State Street)



City Council
36 Court Street
Springfield, MA 01103

ADOPTED

PETITION (ID # 4384)

Meeting: 01/22/18 07:00 PM
Department: City Clerk
Category: License
Prepared By: Anthony I. Wilson
Initiator: Anthony I. Wilson
Sponsors:
DOC ID: 4384

Petition to Keep, Store, Use and Sell Petroleum at 1110 Wilbraham Road

COMMENTS - Current Meeting:

Hamilton Ramos, a representative of Pride Gas Stations, spoke in favor of the application.

RESULT: PASSED BY VOICE VOTE

CITY OF SPRINGFIELD



CITY CLERK'S OFFICE

SPRINGFIELD, MASSACHUSETTS

TO THE CITY COUNCIL OF THE CITY OF SPRINGFIELD:

11-13-2017

Date

The undersigned respectfully petition your honorable body for a license to keep, store, use and sell petroleum and its products in quantities not exceeding 41,000

Gallons in Underground (Underground or Above Ground) (New or Existing) (Circle One)

Location of Land: 1110 Wilbraham Road
Number Street

Nearest Cross Street: Breckwood Blvd

Owner of Land: Three Star Properties, LLC c/o Ride Limited Partnership

Number of Buildings or Other Structures to Which This Application Applies: ONE

Occupancy or Use of Such Buildings: Convenience Store & Gas Fueling Station

Total Current Capacity of Tanks: ABOVEGROUND: UNDERGROUND 27,630

Kind of Fluid to be Stored in Tanks: Gasoline (Class IIB) 31,000 gal; Diesel (Class II) 10,000 gal.

Signature of Applicant

Name: Robert Belduc

Address: 246 Cottage St Springfield MA 011

Phone: 413-737-6992

Fax: 413-731-5852

APPROVED - DISAPPROVED
(Circle One)

11/16/17
Date

Joseph O. Conant
Fire Commissioner of the Fire Department

Application Fee: \$250.00

License Fee: \$ 88.00

Advertisement Fee: \$60.00

Total: \$ 398.00

2/10

80013644

Springfield Fire Department – Fire Prev Div
605 Worthington Street
Springfield, MA 01105-1112
413-787-6410 (Voice) / 413-787-6400 TTY
413-787-6432 (FAX)

David Rivera
Fire Marshal

November 27, 2017

Springfield City Council
36 Court St.
Springfield, Ma. 01103

Re: Petroleum Petition

Council President Ramos,

Please accept this correspondence as the Springfield Fire Department's approval and support of the petition to store petroleum not exceeding 41,000 gallons to be stored at 1110 Wilbraham Rd, Three Star Properties LLC, c/o Pride Limited Partnership. The purpose of the storage is for an existing automobile fuel service station undergoing a renovation and storage quantity upgrade.

Thank you for your consideration in this matter.

Respectfully submitted,



David Rivera
Fire Marshal

Cc: Kateri B. Walsh
Timothy J. Rooke
Kenneth E. Shea
Justin Hurst
Thomas M. Ashe
Melvin A. Edwards
Michael A. Fenton
Timothy C. Allen
E. Henry Twiggs
Adam Gomez
Marcus J. Williams
Bud L. Williams

Attachment: 110 wilbraham rd (4384 : Petition to Keep, Store, Use and Sell Petroleum at 1110 Wilbraham Road)



City Council
36 Court Street
Springfield, MA 01103

Meeting: 01/22/18 07:00 PM
Department: Economic Development
Category: Special Permit
Prepared By: Phil Dromey
Initiator: Phil Dromey
Sponsors:
DOC ID: 4345

ADOPTED

PETITION (ID # 4345)

For a Special Permit for Motor Vehicle Sales at the Property Known as 51 Dale Street (03590-0023), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.1.

Request:	See Above
Owner:	Brylo, LLC
By:	Brylo Lora
Petitioner:	Brylo Lora
By:	Brylo Lora

COMMENTS - Current Meeting:

Brian Lora spoke in favor of the special permit. He owns the property and would like to add a new source of revenue.

No one spoke in opposition.

Councilor Lederman asked if vehicles would be stored in the location. The applicant stated that vehicles are not usually stored at the location.

The hearing was closed.

Motion to amend condition number 4 from 5 cars to 6 cars by councilor Walsh. Seconded by Councilor Fenton. Unanimously approved by voice vote.

The council unanimously adopted the following reasons for approving the special permit:

1. The specific site is an appropriate location for such a use, structure, or condition.
2. The use as developed will not adversely affect the neighborhood.
3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
4. To incorporate the Planning Staff analysis into the decision as the basis of the findings.

RESULT:	ADOPTED AS AMENDED [12 TO 0]
AYES:	Williams, Twiggs, Shea, Walsh, Fenton, Lederman, Edwards, Ashe, Hurst, Ryan, Allen, Ramos
ABSENT:	Adam Gomez

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

for a special permit for motor vehicle sales at the property known as 51 Dale Street (03590-0023), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.1.

Mailing Address:

51 Dale Street
Springfield, MA 01105

Owner:

Brylo, LLC

I hereby certify that I am the owner or acting on behalf of the owner.

BY: _____

Bryan Lora

Mailing Address:

51 Dale Street
Springfield, MA 01105

Petitioner:

Bryan Lora

I hereby certify that I am the petitioner or acting on behalf of the petitioner.

BY: _____

Bryan Lora

Attachment: Dale_St_51_Forma_Tax (4345 : 51 Dale Street)



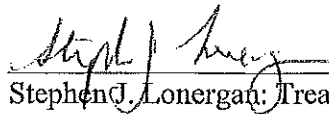
THE CITY OF
SPRINGFIELD, MASSACHUSETTS

12/11/2017

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit : 51 Dale Street
Petitioner : Bryan Lora
Landlord : Brylo LLC Bryan Lora


Stephen J. Lonergan: Treasurer/Collector

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**51 DALE STREET (03590-0023)
MOTOR VEHICLE SALES**

General Information

Petitioner:	Bryan Lura
Request:	Motor vehicle sales
Proposed use of the property:	Motor vehicle sales
Parcel Size:	8,079 s.f.
Compatibility with current planning documents:	The South End Neighborhood Plan does not show any changes to this area.
Neighborhood council notification:	South End Neighborhood Council: 12-14-17
Tax Status:	SEE ATTACHED
Site Visit:	1-16-18
Hearing Date:	1-22-18

Staff Analysis

Neighborhood characteristics:

The parcel is currently zoned Business B and is located in an area with a mix of commercial and residential uses. The surrounding land uses include:

- To the north is a large commercial parking lot zoned Business B.
- To the south is a two-family home zoned Business B.
- To the west are a warehouse facility, four-family and two-family homes zoned Business B.
- To the east is a large commercial parking lot zoned Business B.

Site plan review:

The petitioner has requested a special permit for motor vehicle sales at the property known as 51 Dale Street. This is the current location of a motor vehicle repair operation.

After reviewing the submitted information and visiting the site, the staff does not object to the proposed request. After visiting the site, it does appear that the site is being maintained in good condition. It also appears that there is a large area located to the side of the building that could accommodate the display of vehicles.

As with other used car sales operation, the staff does want to ensure that in addition to the vehicles being displayed for sale, there also remain adequate parking for customers and employees of the existing business.

As such, it would be the staff's recommendation that the number of vehicles allowed to be displayed and/or sold at this location be limited to no more than five (5). If at a later date, the petitioner can demonstrate that there is adequate parking for more, an amendment to the special permit can be requested.



Recommendation

Approve, with conditions.

Recommended Conditions:

1. This special permit is granted to this petitioner only.
2. This special permit is granted for motor vehicle sales at the property known as 51 Dale Street (03590-0023).
3. The use shall be developed as per the attached site plans, with the addition of conditions #4 and #8.
4. There shall be no more than five (5) vehicles stored or displayed for sale at this location.
5. There shall be no storage of junk vehicles at this location.
6. Any and all signage shall be properly permitted, prior to installation.
7. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in denial of the issuance of a Building Permit and/or Occupancy Permit, revocation of any permits issued and/or enforcement by the Code Enforcement Department punishable by fines of up to \$200 per day for each day a violation exists.

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

for a special permit for motor vehicle sales at the property known as 51 Dale Street (03590-0023), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.1.

Mailing Address:

51 Dale Street
 Springfield, MA 01105

Owner:

Brylo, LLC

I hereby certify that I am the owner or acting on behalf of the owner.

BY: B Lora
Bryan Lora

Mailing Address:

51 Dale Street
 Springfield, MA 01105

Petitioner:

Bryan Lora

I hereby certify that I am the petitioner or acting on behalf of the petitioner.

BY: B Lora
Bryan Lora

Attachment: Dale_St_51_Jan_2018 (4345 : 51 Dale Street)

RECEIVED
 JAN 14 AM 12:20
 SPRINGFIELD, MA



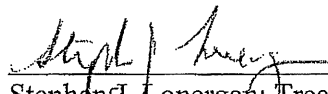
THE CITY OF
SPRINGFIELD, MASSACHUSETTS

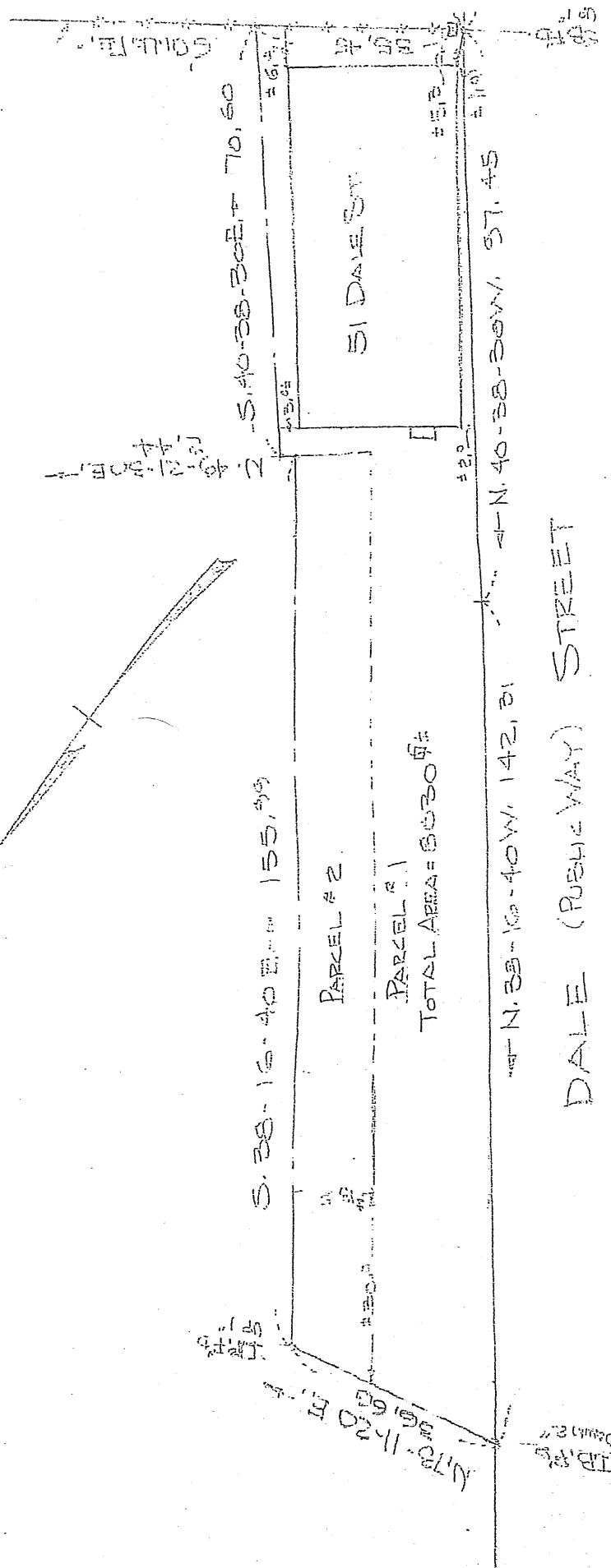
12/11/2017

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

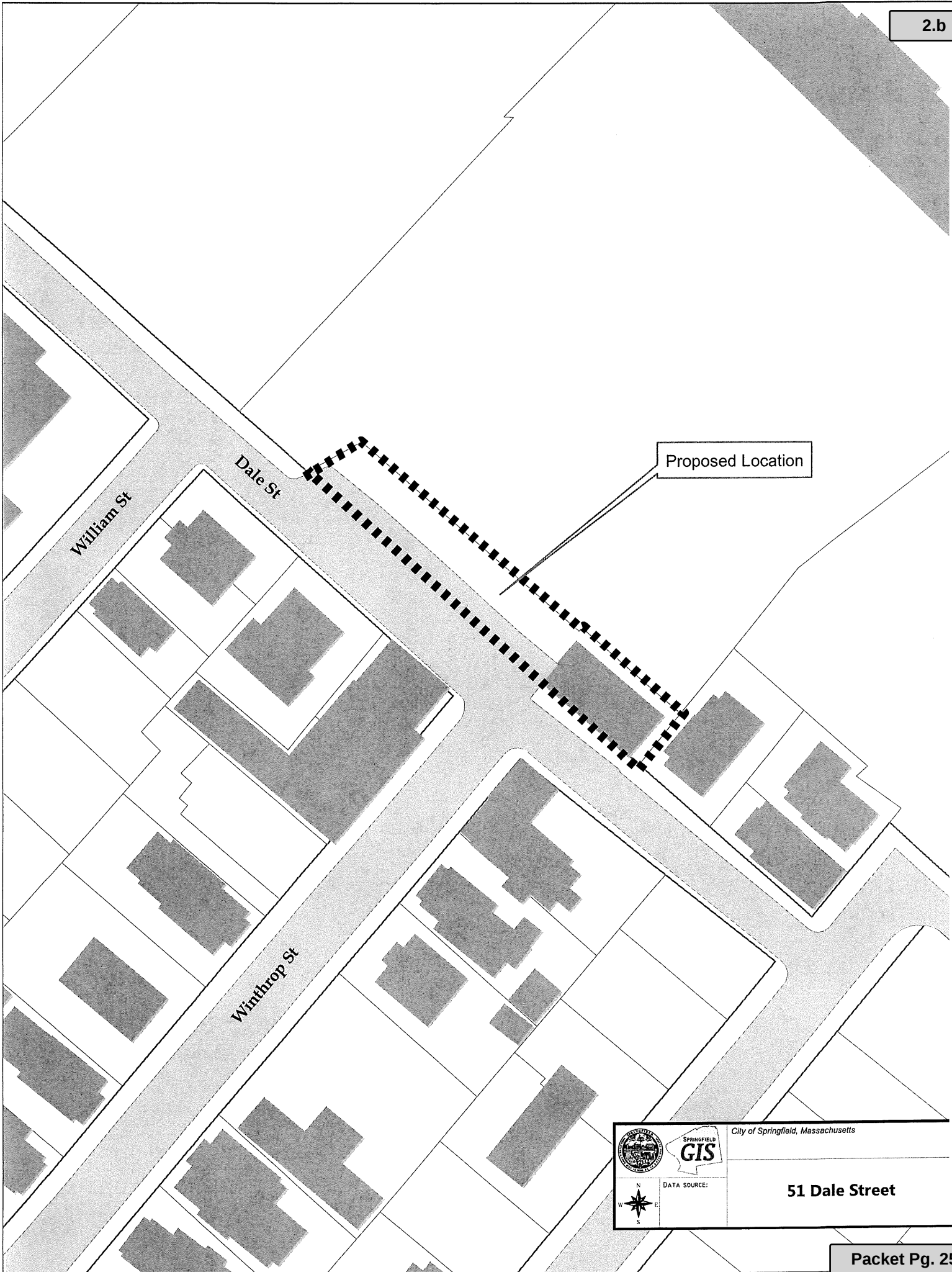
Special Permit : 51 Dale Street
Petitioner : Bryan Lora
Landlord : Brylo LLC Bryan Lora


Stephen J. Loneragan, Treasurer/Collector





Attachment: Dale St 51 Jan 2018 (4345 : 51 Dale Street)



Proposed Location

William St

Dale St

Winthrop St



City of Springfield, Massachusetts



DATA SOURCE:

51 Dale Street

Attachment: Dale_St_51_Jan_2018 (4345 : 51 Dale Street)



City Council
36 Court Street
Springfield, MA 01103

Meeting: 01/22/18 07:00 PM
Department: Economic Development
Category: Special Permit
Prepared By: Phil Dromey
Initiator: Phil Dromey
Sponsors:
DOC ID: 4346

COMPLETED

PETITION (ID # 4346)

**For a Special Permit to Operate a Drive-Up Service Window
at the Properties Known as 705 Liberty Street (07770-0525),
SS Liberty Street (07770-0526), 695-697 Liberty Street (07770-
0527) and NS Passageway (09547-0004), as Allowed by M.G.L.
and the Springfield Zoning Ordinance, Article 4, Table 4-4,
Section 19.1(2).**

Request:	See Above
Owner:	Marc Lamoureux
By:	Marc Lamoureux
Petitioner:	Salmar Realty, LLC
By:	Peter Martins

COMMENTS - Current Meeting:

Paul Karen, representing the petitioner, spoke in favor of the petition. He stated that Dunkin Donuts will build a state of the art facility at this location.

Robert Leveque, the petitioner's project engineer, spoke in favor of the petition. He explained the queuing of motor vehicles. He explained that several structures that are currently on the property will be razed.

John Sampson, from Wilbraham, spoke in favor of the petition. He stated that he owns a property right across the street from this location and he is in favor.

No one spoke in opposition.

Mike Fenton spoke in favor of the petition and explained that the hungry hill neighborhood association was in favor.

Councilor Fenton asked about the construction of pylon signs. The petitioner stated that they did plan to construct signs in the future near liberty and phoenix street. Petitioner stated that they will construct a vinyl fence.

Councilor Allen asked questions about the staking order. The petitioner stated that the stacking area will hold about 12 cars.

Peter Martins, the franchisee, spoke in favor of the project.

Councilor Williams asked about hiring from the neighborhood. The petitioner stated that their practice is to hire locally. Councilor Williams stated that her was in favor.

Councilor Lederman confirmed that there was no one living at the property that the petitioner was demolishing. He also encouraged the petitioner to create recycling facilities for consumer recycling.

Councilor Ryan confirmed that the petitioner was amenable to the conditions.

Councilor Ryan moved to add a 22nd condition to the special permit to have lobby operations from 5am to 10pm and to allow the drive through window to operate from 5am to 12am. Seconded by Councilor Fenton. The motion passed unanimously by voice vote.

The council unanimously adopted the following reasons for approving the special permit:

1. The specific site is an appropriate location for such a use, structure, or condition.
2. The use as developed will not adversely affect the neighborhood.
3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
4. To incorporate the Planning Staff analysis into the decision as the basis of the findings.

RESULT: **APPROVED [UNANIMOUS]**

AYES: Williams, Twiggs, Shea, Gomez, Walsh, Fenton, Lederman, Edwards, Ashe, Hurst, Ryan, Allen, Ramos

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

for a special permit to operate a drive-up service window at the properties known as 705 Liberty Street (07770-0525), SS Liberty Street (07770-0526), 695-697 Liberty Street (07770-0527) and NS Passageway (09547-0004), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 19.1(2).

Mailing Address:

360 Grove Street
 Chicopee, MA 01020

Owner:

Marc Lamoureux

I hereby certify that I am the owner or acting on behalf of the owner.

BY: 

Marc Lamoureux

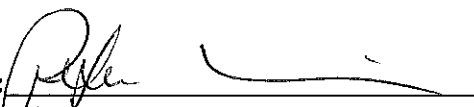
Mailing Address:

350 Cottage Street
 Springfield, MA 01104

Petitioner:

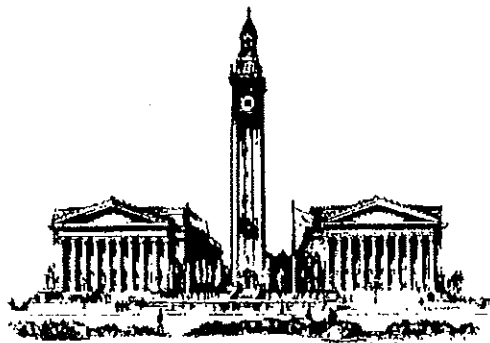
Salmar Realty, LLC.

I hereby certify that I am the petitioner or acting on behalf of the petitioner.

By: 

Peter Martins

Attachment: Liberty_705_Formal_Tax (4346 : 705 Liberty Street)



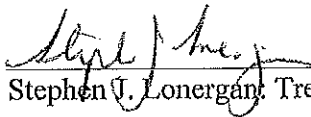
THE CITY OF
SPRINGFIELD, MASSACHUSETTS

12/11/2017

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit : 695-697, 705 Liberty Street
Petitioner : Salmar Realty, LLC/ c/o Peter Martins
Landlord : Marc Lamoureux


Stephen J. Lonergan, Treasurer/Collector

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**705 LIBERTY STREET (07770-0525), SS LIBERTY STREET (07770-0526), 695-697
LIBERTY STREET (07770-0527) AND NS PASSAGEWAY (09547-0004)
DRIVE-UP SERVICE WINDOW**

General Information

Petitioner:	Salmar Realty, LLC
Request:	Drive-up service window.
Proposed use of the property:	Dunkin Donuts
Parcel Size:	21,117 s.f.
Compatibility with current planning documents:	The Liberty Heights Neighborhood Plan shows no changes to this area.
Neighborhood council notification:	Hungry Hill Civic Association: 12-14-17
Tax Status:	SEE ATTACHED
Site Visit:	1-16-18
City Council Hearing:	1-22-18

Staff Analysis

Neighborhood characteristics:

The property is currently zoned Business A and is located in an area that has a mix of commercial and residential uses. The surrounding land uses include:

- To the north is an automotive repair/sales operation zoned Business A.
- To the south is a commercial shopping plaza zoned Business A.
- To the east is a two-family house zoned Residence B.
- To the west is a funeral home zoned Business A.

Site plan review:

The petitioner has requested a special permit to operate a drive-up service window at the properties known as 705 Liberty Street, 695-697 Liberty Street, NS Liberty Street and NS Passageway. This site currently contains a vacant motor vehicle repair shop and a two (2) family house. Both structures will be demolished and a new 2,280 square foot Dunkin Donuts, with a drive-up service window, will be constructed.

After reviewing the proposed plans and visiting the site, the staff does not object to the proposed request, however, the staff does have the following comments.

First, in reviewing the proposed plans, the staff is very pleased to see that the proposed building will be located up to the street line with direct pedestrian access to the building. Many times in new designs, a pedestrian is required to either walking through a parking lot or across the drive-up lane. This will not be the case at this location. Pedestrians entering/exiting that site will have direct access to Liberty Street.

As shown on the attached plans, there will be two (2) curb cuts onto the property. One (1) curb cut would be located to the south if the new building and would be used to access the parking and the drive-up service window. The proposed drive-up service lane is located to the rear of the property and will wrap around the new building. This curb cut is proposed to allow both entering and exiting traffic. The second curb cut would be located to the north of the building and would allow for exiting traffic only. This curb cut would be primarily used for the drive-up service window; however, vehicles parking in the south parking lot could also use this to exit the site as well. It should be noted that there currently is a large curb cut along Phoenix Street, however, this curb cut will be closed and there will be no vehicle access to or from Phoenix Street. Lastly, the staff has also spoken to the Department of Public Works and confirmed that there are no issues with the proposed curb cuts and/or traffic at this location.



With regards to the proposed building design, the only other comment that the staff would have is the consideration of the petitioner to adding an outdoor seating area. This has been done to a number of other Dunkin Donuts locations throughout the City and the staff firmly believes that these add a significant amenity to these developments and are used frequently by the customers.

In addition to the site plans, a full landscaping plan was also submitted. The staff has reviewed the proposed plans and is pleased with what is being proposed.

Lastly, as noted above, this proposed use will directly abut a two (2) family home. As such, the staff wants to ensure that this residential structure is properly buffered. The plans indicate that there will be an arborvitae hedge installed along the rear property line. In addition to this hedge, the staff would also strongly recommend that a six (6) foot solid fence also be installed to provide additional buffering.

Recommendation

Approve, with conditions.

Recommended Conditions

1. This special permit is granted to this petitioner only.
2. This special permit is granted solely to operate a drive-up service window at the properties known as 705 Liberty Street (07770-0252), NS Liberty Street (07770-0526), 695-697 Liberty Street (07770-0527) and NS Passageway (09547-0004).
3. The use shall be developed as per the attached site plans and elevations, dated December 7, 2017, with the addition of conditions #4 and #20.
4. All landscaped areas shall be installed as per the attached plans. This landscaping, as well as the entire site, shall be maintained and kept free of all overgrown vegetation, weeds, litter and/or debris.
5. In addition to the proposed arborvitae hedge, a six (6) foot solid fence shall be installed along the rear property line. If using stockade fencing, the "good side" of the fence shall face the residential abutter.
6. The public sidewalk(s) and tree belt(s) along Liberty Street and Phoenix Street shall be maintained, including snow removal.
7. All landscaped areas shall be irrigated.
8. Any and all un-used curb cuts shall be removed, as per DPW specifications, and the tree belt, if any, re-established.
9. All sidewalks shall remain at grade and shall not be depressed to accommodate the driveways.
10. All signs shall be properly permitted prior to installation.
11. There shall be no banners, streamers or pennants located on the property, with the exception of a grand opening event. Any and all temporary signage shall be properly permitted.
12. No signs or banners shall be attached to the light poles or any utility poles.
13. Any and all dumpsters shall be completely enclosed.
14. Loitering to be addressed at all times.
15. The building shall be maintained graffiti free.
16. There shall be no outdoor storage of materials.
17. The drive-up service ordering board/operation shall not be audible from the residential abutter.
18. All lighting shall be shielded from the residential abutter.
19. In addition to the special permit approval, a full review by the Department of Public Works, as per the provisions of City Ordinance, Article VIII, §27-29, will be required. This approval must be obtained prior to the issuance of a Building Permit.
20. An Approval Not Required Plan (ANR) plan shall be submitted to the Planning Board for approval and shall be recorded at the Hampden County Registry of Deeds combining all the existing parcels.
21. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in denial of the issuance of a Building Permit and/or Occupancy Permit, revocation of any permits issued and/or enforcement by the Code Enforcement Department punishable by fines of up to \$200 per day for each day a violation exists.



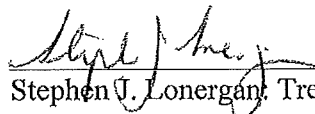
THE CITY OF
SPRINGFIELD, MASSACHUSETTS

12/11/2017

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit : 695-697, 705 Liberty Street
Petitioner : Salmar Realty, LLC/ c/o Peter Martins
Landlord : Marc Lamoureux


Stephen J. Lonergan, Treasurer/Collector

NARRATIVE ADDENDUM TO CITY COUNCIL SPECIAL PERMIT APPLICATION *for*

Proposed Drive-Thru Restaurant
695-697, 705 Liberty Street
(Parcel ID: 077700525, 077700526, 077700527, & 095470004)
Springfield, MA 01104
RLA Project No. 161220

Introduction

The applicant, Salmar Realty, LLC is herein submitting a City Council Special Permit (Tier 3) application to the City of Springfield. The subject properties are located southeast of the intersection of Liberty Street and Phoenix Street. The applicant proposes to construct a drive-thru restaurant with associated site improvements, as shown in the attached project plans entitled "Proposed Drive-Thru Restaurant", dated 12/7/17, prepared by R Levesque Associates, Inc. The properties are recorded in the Hampden County registry of Deeds in Book 17035, Page 209. The properties lie within the "Business A" Zoning District. A Locus Map is included in Section 5 of this application package.

Existing Conditions and Surrounding Land Uses

The site is currently a mix of paved, gravel, and grassed areas. Parcel 077700525 contains a commercial garage building (1,521±s.f.) and parcel 077700527 contains a two-story residential building (1,475±s.f.). The two remaining parcels, 077700526 and 095470004 are vacant with no structures. Currently, general access to the site is from curbs cuts on Phoenix Street and Liberty Street. The topography within the subject site slopes gently to the southeast.

Surrounding properties to south are zoned Business A with the abutting property to the east zoned Residence B. The abutting properties are utilized for retail, residential, and business uses.

Please refer to the project plans for more details regarding the existing site conditions.

Proposed Conditions

General

The applicant proposes to construct a 2,280+/- square foot Dunkin' Donuts restaurant with a drive-thru window and associated site improvements. The site

will be accessed via two entrance/exit curb cuts on Liberty Street. The existing curb cut on Phoenix Street will be removed. Vehicular circulation within the site will run in a counter clockwise direction and will provide for greater than ten (10) stacking spaces within the drive-thru driveway. Parking for nineteen (19) vehicles has been provided within the site. Two van-accessible handicapped parking spaces have been provided along the south side of the proposed building.

Refuse pick up will take place in a dedicated refuse area located at the southernmost corner of the project site. This area will be enclosed using six (6) foot stockade fence. Provisions for pedestrian access to and from the site will be provided.

Traffic from the proposed restaurant is expected to be redirected from the current Dunkin Donuts restaurant on Liberty Street which will be closed. The bypass trips that are collected by the existing Dunkin Donuts at the other side of the street will be redirected to this new Dunking Donuts location. Therefore, any increase in traffic on the surrounding roadways is expected to be de minimal.

Stormwater Management

A Stormwater Management system has been designed to accommodate the proposed site development project. The stormwater management system consists of deep sump catch basins, 12" HDPE stormwater conveyance piping which leads to a proposed water-quality units and then to a subsurface infiltration system located to the southeast side of the proposed building, under the parking lot. In the event of a catastrophic storm event, said system will surcharge within PCB-1 to an overflow pipe which outlets to the existing drainage infrastructure in Phoenix Avenue. Please see the stormwater analysis and report by R Levesque Associates, Inc., submitted under separate cover with this application packet.

Erosion and Sedimentation Control

The proposed erosion and sedimentation controls at the site include a stone tracking pad at the construction access point off of Liberty Street, silt fencing at down-gradient extents of construction and Best Management Practices. Please refer to the attached project plan set, page C-6, for the specific location and details of the proposed controls.

Landscaping, Lighting, & Signage

The proposed landscaping for the subject site includes screening of the proposed drive thru and travel lanes from the property to the east, foundation plantings near the building and ornamental tree and shrub plantings within the landscaped islands. The proposed trees and shrubs are native to the area, attractive and will be easy to maintain. Please see the attached Landscape Plan, page C-6, for additional information.

The lighting for the proposed building and parking has been provided via wall-mounted building light fixtures and pole-mounted parking area fixtures. All lighting will be LED and will be directed downward and shielded to prevent spillover to adjacent properties. Please see the lighting cut sheets and photometric plan for additional detail on the proposed lighting.

The signage within the subject property will consist of an proposed pylon sign located along the property frontage and the typical "Fresh Brew" logo's signage and color palette on the building. A separate signage package will be provided by the proponent.

END OF NARRATIVE ADDENDUM

Proposed Drive-Thru Restaurant

695, 697 & 705 Liberty Street

OWNED BY

AS PREPARED FOR

Springfield, MA 01056

* ARLINGTON A RESIDENTIAL DISTRICT/ARLINGTON A NON-RESIDENTIAL DISTRICT
** ARLINGTON STREET/ARLINGTON RESIDENCE B DISTRICT

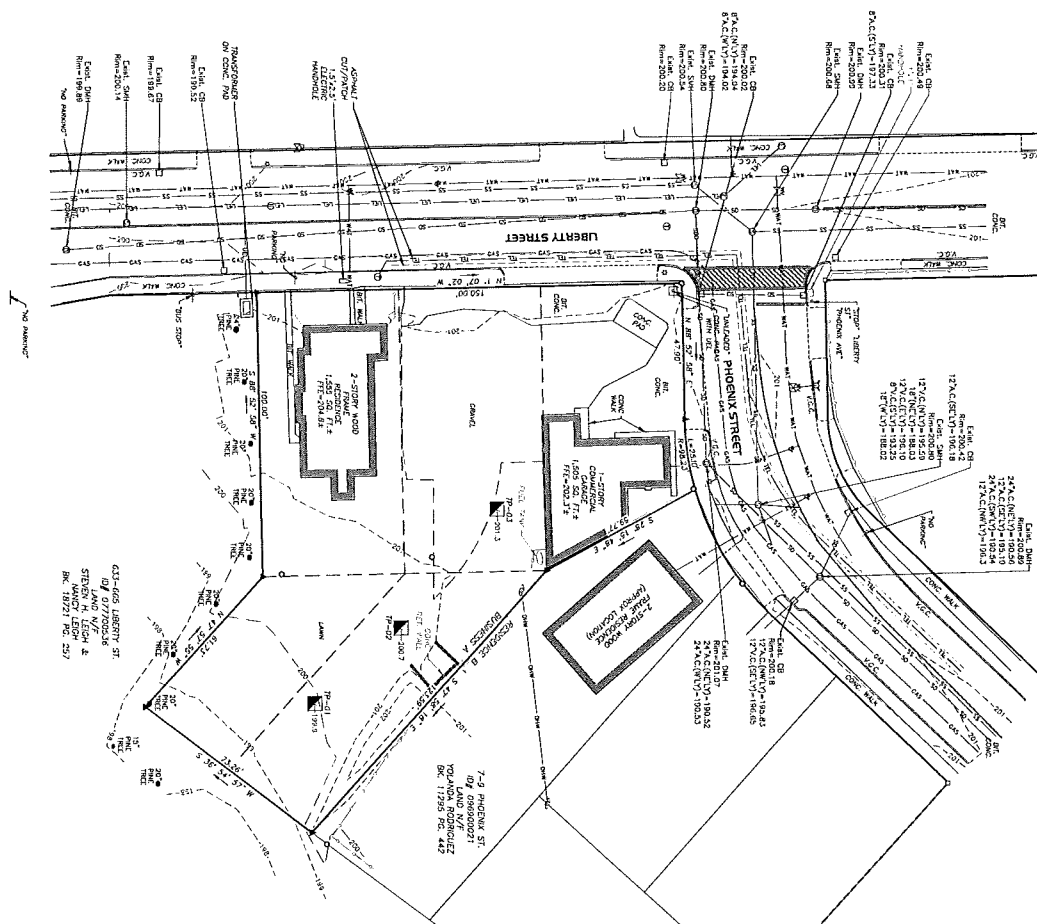
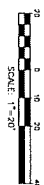


SHEET NO.	TITLE SHEET	SHEET NAME	DRAWING INDEX	ISSUE DATE	REVISION DATE
1-1				12/27/17	
EX-1		EXISTING CONDITIONS PLAN		12/27/17	
C-1		NOTES, SYMBOLS & LINE LEGEND AND ABBREVIATIONS		12/27/17	
C-2		CONSTRUCTION NOTES		12/27/17	
C-3		BOUNDARY & EASEMENT CONTROL PLAN		12/27/17	
C-4		LOT/LOT & MATERIALS CONTROL PLAN		12/27/17	
C-5		PAVING, CURBING & EROSION CONTROL CONTROL PLAN		12/27/17	
C-6		PLANNING, DESIGN & UTILITIES PLAN		12/27/17	
C-7		STREET LANDSCAPING PLAN		12/27/17	
C-8		STREET LANDSCAPING PLAN		12/27/17	
D-1		DETAILS		12/27/17	
D-2		DETAILS		12/27/17	
D-3		DETAILS		12/27/17	
D-4		DETAILS		12/27/17	
D-5		DETAILS		12/27/17	

**RELLEVESQUE
ASSOCIATES**
A LAND PLANNING SERVICES COMPANY

www.r1aland.com

PERMITTING



PERMITTING

EX-1

DATE: 1/11/18
BY: [Signature]

UNAPPROVED ATTACHMENT
THIS DOCUMENT IS NOT FOR CONSTRUCTION
OR RECORDING PURPOSES

SCALE: SEE PLAN

PLA FILE NUMBER: 17350

DATE: 1/11/18

BY: [Signature]

DATE: 1/11/18

BY: [Signature]

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EXISTING CONDITIONS PLAN

Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street

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Packet Pg. 39

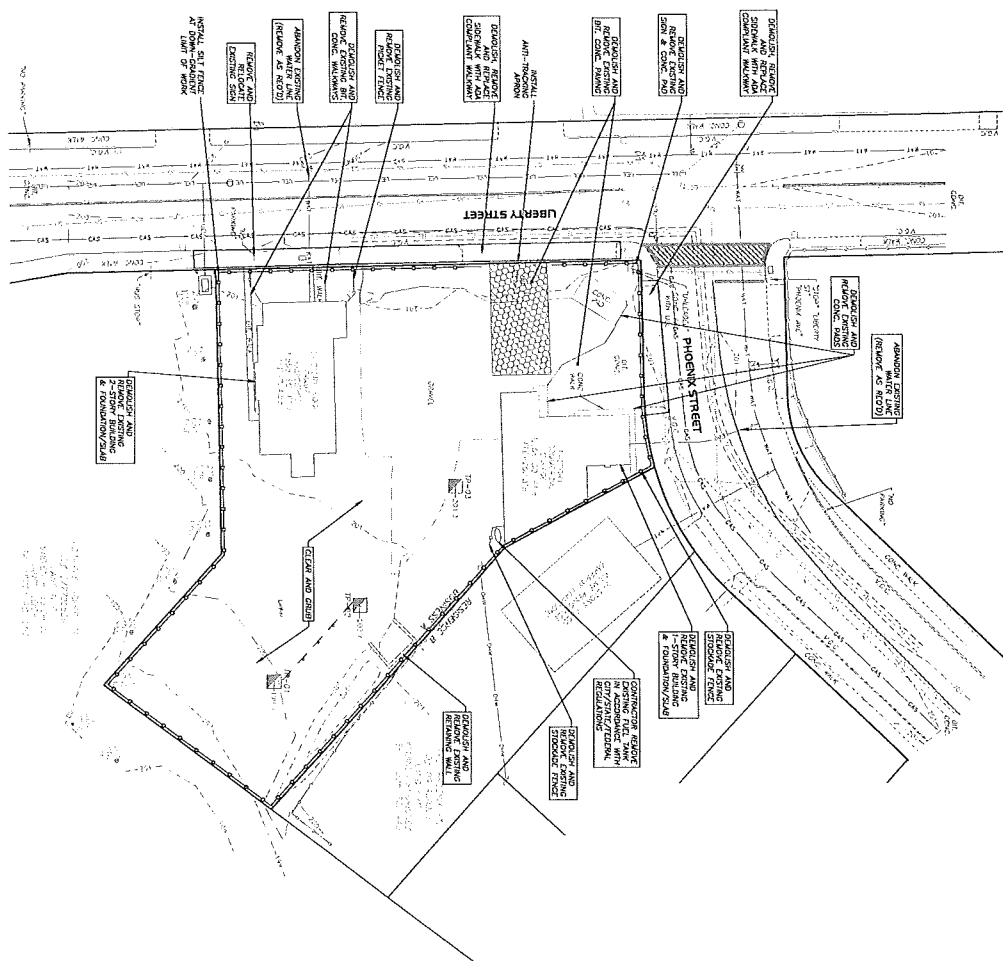
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8. CONTRACTOR TO CONDUCT AN INSPECTION WITH AGENCIES C-600 AND AWA-1000 TO DETERMINE THE LOCATION OF ALL EXISTING UTILITY LINES.
9. EXISTING POWER LINES SHALL BE IDENTIFIED IN ACCORDANCE WITH AWA C-100.
10. ALL EXISTING UTILITY LINES ARE TO BE RE-INSTALLED. UTILITY SHALL BE OBTAINED BY CONTRACTOR FROM RELEVANT THE FIRST CONTRACT TO THE FIRMING SHALL BE RE-INSTALLED FOR THE MAINTENANCE OF SERVICE.
11. ALL EXISTING UTILITY LINES SHALL BE IDENTIFIED AND RE-INSTALLED WITHIN 100' OF THE EXISTING UTILITY LINES. CONTRACTOR SHALL NOT PROCEED WITHOUT AUTHORIZATION BY THE ENGINEER.
12. ALL EXISTING UTILITY LINES SHALL BE IDENTIFIED AND RE-INSTALLED WITHIN 100' OF THE EXISTING UTILITY LINES.
13. BUREAU SHALL BE CONDUCTED BY 80 PERCENT OF THE STANDARD PROVIDED BY THE ENGINEER. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RE-INSTALLATION OF EXISTING UTILITY LINES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RE-INSTALLATION OF EXISTING UTILITY LINES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RE-INSTALLATION OF EXISTING UTILITY LINES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RE-INSTALLATION OF EXISTING UTILITY LINES.
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C-2	-
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**Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street**

R L A
R LEVESQUE ASSOCIATES
Landscapes Architecture
Civil Engineering • Land Surveying
Environmental Consulting
Ph: 413.566.0793, fax: 413.566.0796
40 School Street
Windsor, VT 05095



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PERMITTING

**Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street**

MAILED FOR

Mr. Peter Martins
Salmar Realty, LLC
350 Cottage Street
Springfield, MA 01104

<u>ISSUANCE DATE</u>	<u>Date received</u>	<u>DATE</u>
<u>REVISIONS:</u>		

UNAUTHORIZED ATTENTION OF
THIS DOCUMENT IS A VIOLATION
OF MASSACHUSETTS STATE LAW

SCALE ME TUN

UNAUTHORIZED ALTERATION OF
THIS DOCUMENT IS A VIOLATION
OF MASSACHUSETTS STATE LAWS

SCALE: SEE PAGE 10

DRAWING II



RLA
R L EVESQUE
ASSOCIATES

Landscape Architects
Civil Engineers • Land Surveyors
Environmental Consultants

40 School Street
Westfield, MA 01085
rla@land.com

ph: 413.568.0985 fax: 413.568.0986



ABUTTING A RESIDENTIAL DISTRICT/ABUTTING A NON-RESIDENTIAL DISTRICT
** ABUTTING STREET/ABUTTING RESIDENCE B DISTRICT

** ADJUTANT STREET/ADJUTANT RESIDENCE B DISTRICT

VIEW - Business A (BA)

- [illegible]

CONSTRUCTION NOTES

- CONTACT SUPERVISOR OF PUBLIC WORKS (DPW) FOR REVIEW AND APPROVAL OF ANY ACCORDANCE OF THE APPROVED SITE PLANS PRIOR TO WORK BEING PERFORMED.
- CONTACT SHELTERED WATER & SEWER COMMISSION (SWSC) FOR REVIEW AND APPROVAL OF ANY MODIFICATIONS OF THE APPROVED LAND GRANT TO THE WORK BEING PERFORMED.
- ANY WORK AND MATERIAL WITHIN THE CITY RIGHT-OF-WAY SHALL CONFORM TO THE CITY OF SHELTERED WATER REQUIREMENTS.
- CONTRACTOR MUST OBTAIN 6" X 6" STREET OPENING & TRENCH PERMITS BEFORE ALL WATER, SEWER, GAS AND RAILROAD UTILITY AND CONSTRUCTION SHALL CONFORM TO THE CITY OF SHELTERED WATER REQUIREMENTS.
- ALL WATER AND SEWER CONSTRUCTION SHALL BE INSPECTED BY THE SWSC BEFORE BEING BACKFILLED.
- ALL WATER AND SEWER CONSTRUCTION SHALL BE NOTIFIED AT LEAST 24 HOURS PRIOR TO THE CITY OF SHELTERED WATER.

ACCESSIBILITY NOTES

1. ALL ACCESSIBLE ROUTES, TRANSITIONS, AND ACCESSIBLE PARKING/LOADING AREAS, INCLUDING ALL ENTRANCES TO BUILDING, SHALL ADHERE TO 217 C.M.R.
2. SHOULD THE ARCHITECT PROVIDE ADDITIONAL ENTRANCES OR MEANS OF EGRESS, ADDITIONAL ACCESSIBLE ROUTES MAY BE REQUIRED.
3. IT IS THE RESPONSIBILITY OF THE ARCHITECT AND CONTRACTOR TO NOTIFY THE ENGINEER AND LANDSCAPE ARCHITECT OF ANY CHANGES TO THE PROPOSED BUILDING THAT WOULD AFFECT THE ACCESSIBILITY REQUIREMENTS OF THE PROPOSED SITE.
4. THE CONTRACTOR SHALL REVIEW IN DETAIL THE REQUIREMENTS OF 217 C.M.R. AND SHALL BE RESPONSIBLE FOR CONFORMANCE WITH SAID REGULATIONS.

SIGNAGE AND PAVEMENT MARKING NOTES

1. STRIPE ALL PARKING AREAS AS SHOWN, INCLUDING PARKING SPACES, STOP DATS, CROSSWALKS, AND ACCESSIBLE ROUTE MARKINGS AND SYMBOLS USING WHITE TRAFFIC PAINT. PAINTED ISLANDS, FIRE LANES, AND TRAVEL WAY CENTERLINES SHALL BE PAINTED USING YELLOW TRAFFIC PAINT. ALL TRAFFIC PAINT SHALL CONFORM TO MCHS TYPE "N".

RLA
R LEVESQUE
ASSOCIATES INC.

Landscaping Architects
Civil Engineers • Land Surveyors
Environmental Consultants

40 School Street
Westfield, MA 01085
rland.com

LAYOUT & MATERIALS PLAN



1

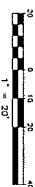
Mr. Peter Martins
Solmar Realty, LLC
350 Conago Street
Springfield, MA 01104

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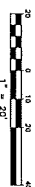
UNAUTHORIZED ALTERATION OF
THIS DOCUMENT IS A VIOLATION
OF MASSACHUSETTS STATE LAW

SCALE: SEE PLAN

C-4



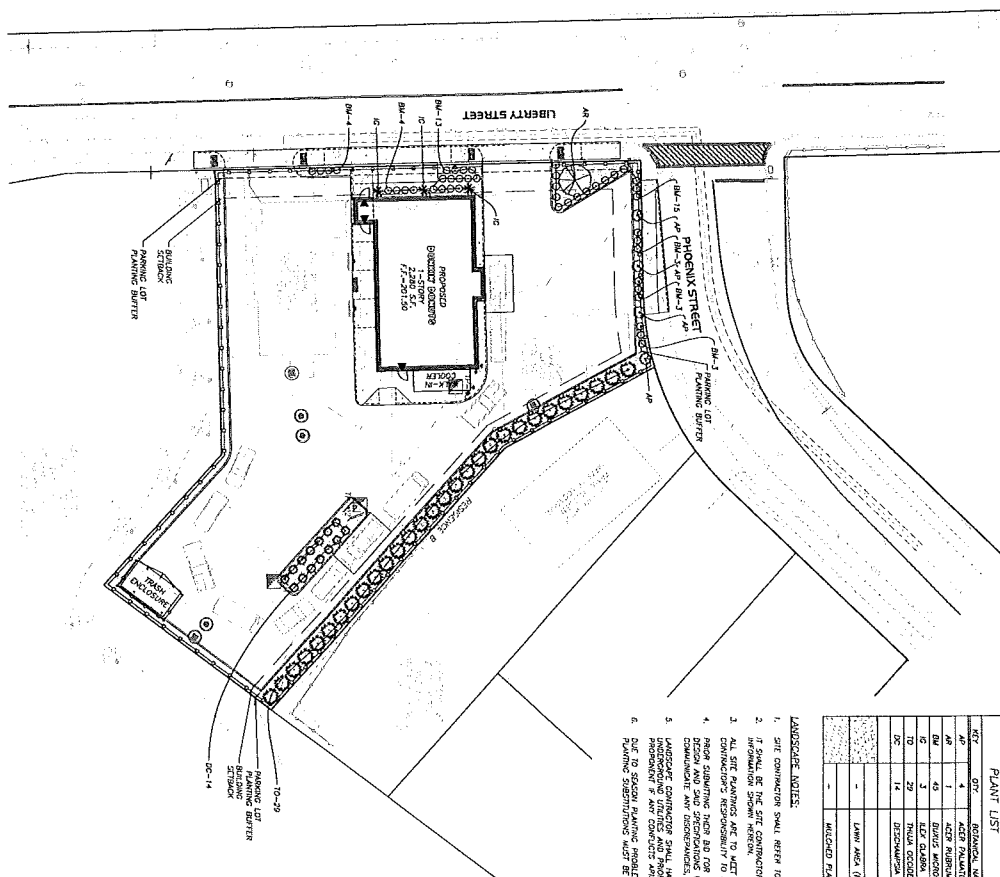
PERMITTING



AT A MINIMUM, ENGINEER SHALL INSPECT THE CONSTRUCTION OF THE SUBSURFACE BASIN THE FOLLOWING MILESTONES:

1. EXCAVATION OF THE INFILTRATION AREA
2. INSTALLATION OF THE STONE & CHAMBERS PRIOR TO BACKFILL
3. BACKFILL OF INFILTRATION SYSTEM PRIOR TO COVERING WITH FILL

CO



1. SITE CONSTRUCTION SHALL BE SET OUT IN SHEET C-1, C-2, DETAIL SHEETS AND REMAINING MAIN SET FOR INFORMATION REGARDING LANDSCAPING, PLANTING, AND PLANNING.
2. IT SHALL BE THE SITE CONTRACTOR'S RESPONSIBILITY TO OBTAIN-NECESSARY INFORMATION CONCERNED IN OTHER SHEETS WITH THE LANDSCAPING, PLANNING, AND SOILS SECTION.
3. ALL SITE PLANNINGS ARE TO BE SET OR LOCATED THE LOCAL ESTABLISHMENTS DETAIL IN THE ADJACENTING AREAS. IF A THE PLANNING PLANNING AREA IS NOT CONSIDERED, THE SITE CONTRACTOR SHALL CONSULT WITH THE ADJACENTING PLANNING AREA AND COORDINATING WITH THE PROJECT MANAGER, LANDSCAPE ARCHITECT/ENGINEER, SHOULD THE SITE CONSTRUCTION FALL TO THE ADJACENTING PLANNING AREA. THE SITE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY OTHER NEIGHBORING ROAD AND DEVELOPMENT.
4. LANDSCAPE CONTRACTORS SHALL BE RESPONSIBLE FOR THE DESIGN OF THE LANDSCAPING, PLANNING, AND PLANNING. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN OF THE LANDSCAPING, PLANNING, AND PLANNING. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN OF THE LANDSCAPING, PLANNING, AND PLANNING.
5. PLANNING AND PLANNING SHALL BE SET OUT IN SHEET C-1, C-2, DETAIL SHEETS AND REMAINING MAIN SET FOR INFORMATION REGARDING LANDSCAPING, PLANNING, AND PLANNING.

[illegible]

**Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street**

PREPARED FOR:

Mr. Peter Martins
Salmar Realty, LLC
350 Cottage Street
Springfield, MA 01104

REVISIONS	DATE
-----------	------

DATE _____

UNAUTHORIZED ALTERATION OF
THIS DOCUMENT IS A VIOLATION
OF MASSACHUSETTS STATE LAW

SCARLETT, M. E. 1990.

PERMITTING

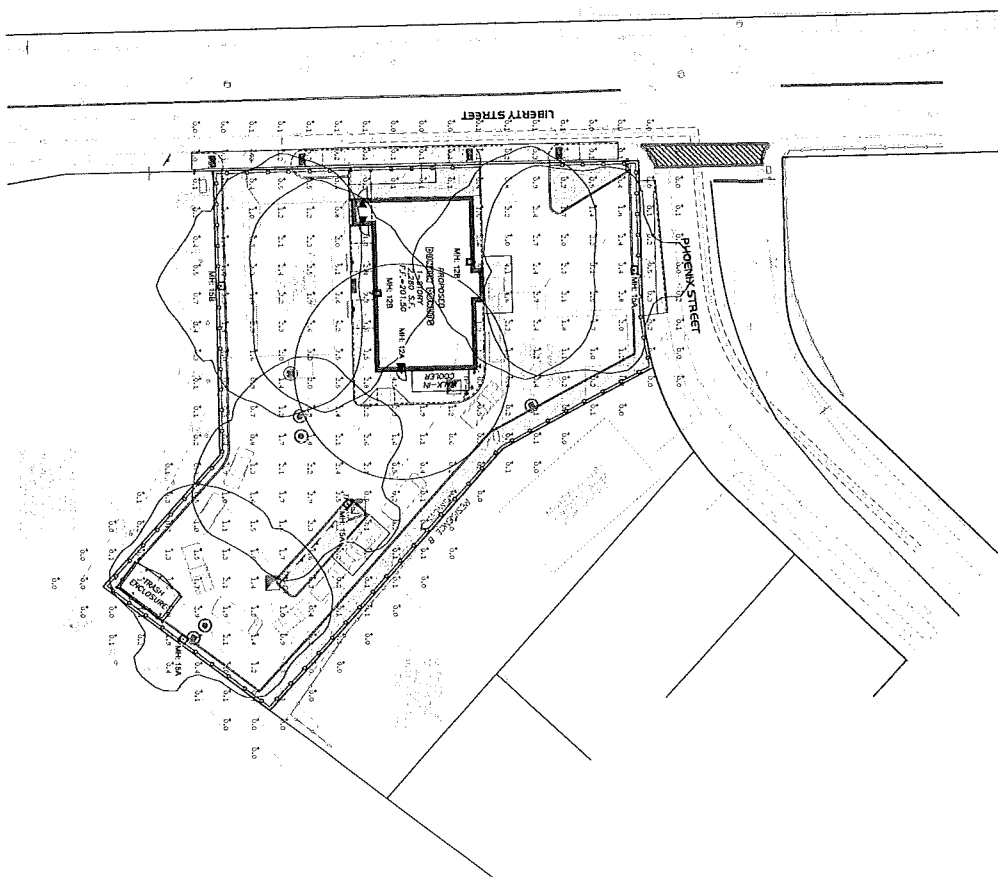
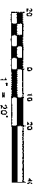
AW/IND:*	REV:
C-7	-

RLA
R LEVESQUE
ASSOCIATES
Landscape Architects

Call Engineers • Land Surveyors
Environmental Consultants
ph: 413.568.0985 fax: 413.568.0986

Wedfield, MA 01885
relaxand.com

PLAIDHO.COM

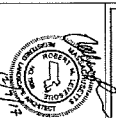


Landscaping Schedule		Tree	Quantity	Plant	Notes
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95	96	97	98	99	100

- NOTES**
1. FOOT CANDLE VALUES SHOWN ON PLAN REFLECT LIGHT FROM POLE MOUNTED AND WALL MOUNTED FIXTURES.
 2. PHOTOGRAPHIC CALCULATIONS PROVIDED BY:
SIT PLEASANT VALLEY ROAD
SPRINGFIELD, MA 01104
www.sitma.com
T: 408.285.0237

PERMITTING

PROJECT NO.	161220	
DATE	1/17/18	
DESIGNED BY	M. Peter Martins	
CHECKED BY	Senior Faculty, LLC	
APPROVED BY	Springfield, MA 01104	
ISSUANCE DATE	December 1, 2017	
REVISIONS		
NO.	DATE	DESCRIPTION
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SITE LANDSCAPING PLAN

Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street

R L A

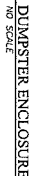
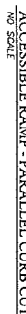
R LEVESQUE ASSOCIATES, INC.

Landscaping Architects
Civil & Environmental Consultants
Environmental Consultants
P.O. Box 413, 548.0785 Fax: 413.548.0786
www.rla.com
40 South Street
Vermont, MA 01103
rla@rla.com

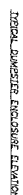
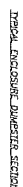




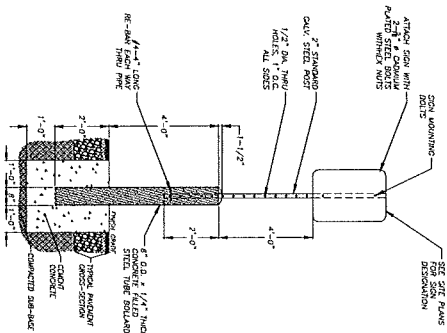
NO SCALE
ACCESSIBLE RAINF - PARALLEL CONB COI



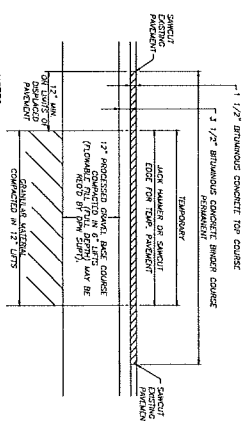
TYPICAL ENCLOSURE DIMENSION SECTION



TYPICAL DUMPSTER ENCLOSURE ELEVATION



STEEL BOLLARD WITH SIGN DETAIL
NO SCALE



PERMANENT PAVEMENT REPLACEMENT PLAN
NO SCALE

PERMITTING

DRAWING#	REV
D-2	-

**Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street**

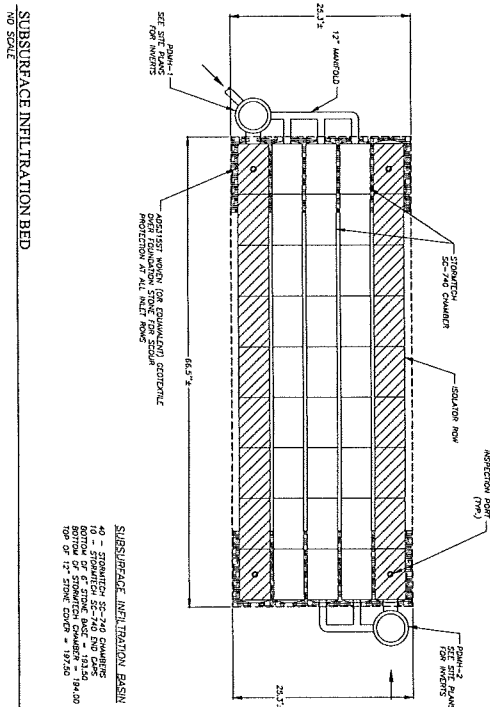
**R L EVESQUE
ASSOCIATES**
Landscaping Architects
Civil Engineers • Land Surveyors
Environmental Consultants

40 School Street
Westfield, MA 01085
rland.com

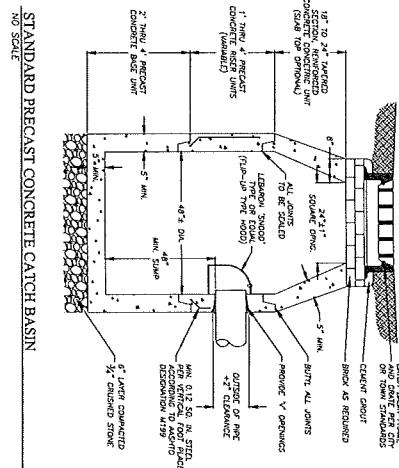
ph: 413.568.0785 fax: 413.568.0786

RLA

Packet Pg. 48



- CHAMBER SPECIFICATIONS**
1. CHAMBERS SHALL BE MANUFACTURED FROM VIBRATORY POLYETHYLENE OR POLYPROPYLENE (PP) WITH A MINIMUM TENSILE STRENGTH OF 1000 PSI.
 2. CHAMBERS SHALL BE DESIGNED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:
 3. CHAMBERS SHALL BE DESIGNED TO WITHSTAND A MINIMUM OF 1000 PSI OF SOIL LOAD.
 4. CHAMBERS SHALL BE DESIGNED TO WITHSTAND A MINIMUM OF 1000 PSI OF SOIL LOAD.
 5. CHAMBERS SHALL BE DESIGNED TO WITHSTAND A MINIMUM OF 1000 PSI OF SOIL LOAD.
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 9. CHAMBERS SHALL BE DESIGNED TO WITHSTAND A MINIMUM OF 1000 PSI OF SOIL LOAD.
 10. CHAMBERS SHALL BE DESIGNED TO WITHSTAND A MINIMUM OF 1000 PSI OF SOIL LOAD.



DETAILS

Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street



PREPARED FOR:

Mr. Doug Morris
Shaw Realty, LLC
500 Cherry Hill
Spring Hill, TN 37174

DESIGNED BY: D-4

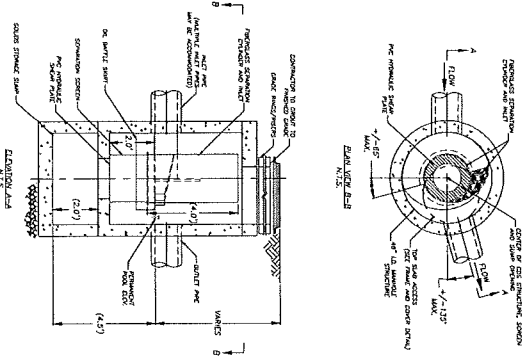
DATE: 1/11/18

SCALE: AS SHOWN

THIS DOCUMENT IS VALID FOR THE PROJECT ONLY.

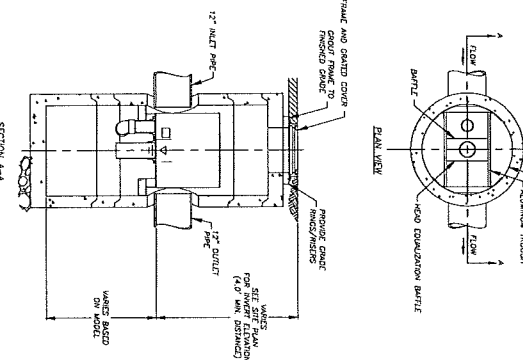
D-4

CDSD2015-4-C - CDS INLINE STANDARD DETAIL (PVCU-1)
NO SCALE



- GENERAL NOTES**
1. CONSTRUCTION TO PROVIDE ALL MATERIALS UNLESS NOTED OTHERWISE.
 2. CONSTRUCTION TO PROVIDE ALL MATERIALS UNLESS NOTED OTHERWISE.
 3. CONSTRUCTION TO PROVIDE ALL MATERIALS UNLESS NOTED OTHERWISE.
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 10. CONSTRUCTION TO PROVIDE ALL MATERIALS UNLESS NOTED OTHERWISE.

VORTEXENTRHY HS FRAME & COVER DETAIL - MODEL HS36 (PVCU-2)
NO SCALE



PERMITTING

RLA

RUEVESQUE & ASSOCIATES, INC.

Professional Engineer
No. 41344-0005
Wendell, MA 01895



- STANDARD SIDEWALK SLOPE IS 3/16 PER FT.
- MINIMUM CONCRETE STRENGTH WILL BE 4,000#, CLASS D

SPRINGFIELD, MA DPW 2-27-2006

SIDEWALK CONSTRUCTION AT COMMERCIAL DRIVEWAYS (AS NEEDED)
NO SCALE



- 9" CONCRETE MAY BE REPLACED BY 6" ASPHALT IF APPROVED
- STANDARD SIDEWALK SLOPE IS 3/16 PER FT.
- MAXIMUM DRIVEWAY WIDTH IS 40' WITH TWO 2" CURB RETURNS (36" OPENING)

SPRINGFIELD, MA DPW 2-27-2006

TRENCH REPAIR SPECIFICATION - ARTERIAL STREET
NO SCALE

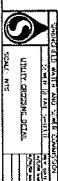


1. SAW CUT OUTER EDGE OF UTILITY PATCH
2. MILL TO REMOVE TOP COURSE

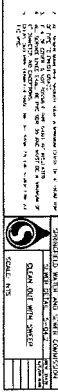
2-B SPECIFICATION FOR PATCHING BIT. CONC. ROADWAYS(CONT.)

SPRINGFIELD, MA DPW 2-27-2006

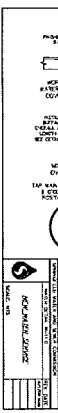
PERMITTING



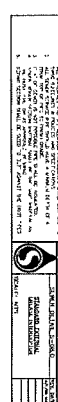
UTILITY CROSSING DETAIL (S-03.0)
NO SCALE



CLEAN OUT WITH SWEEP (S-04.2)
NO SCALE



NEW WATER SERVICE (W-11.0)
NO SCALE

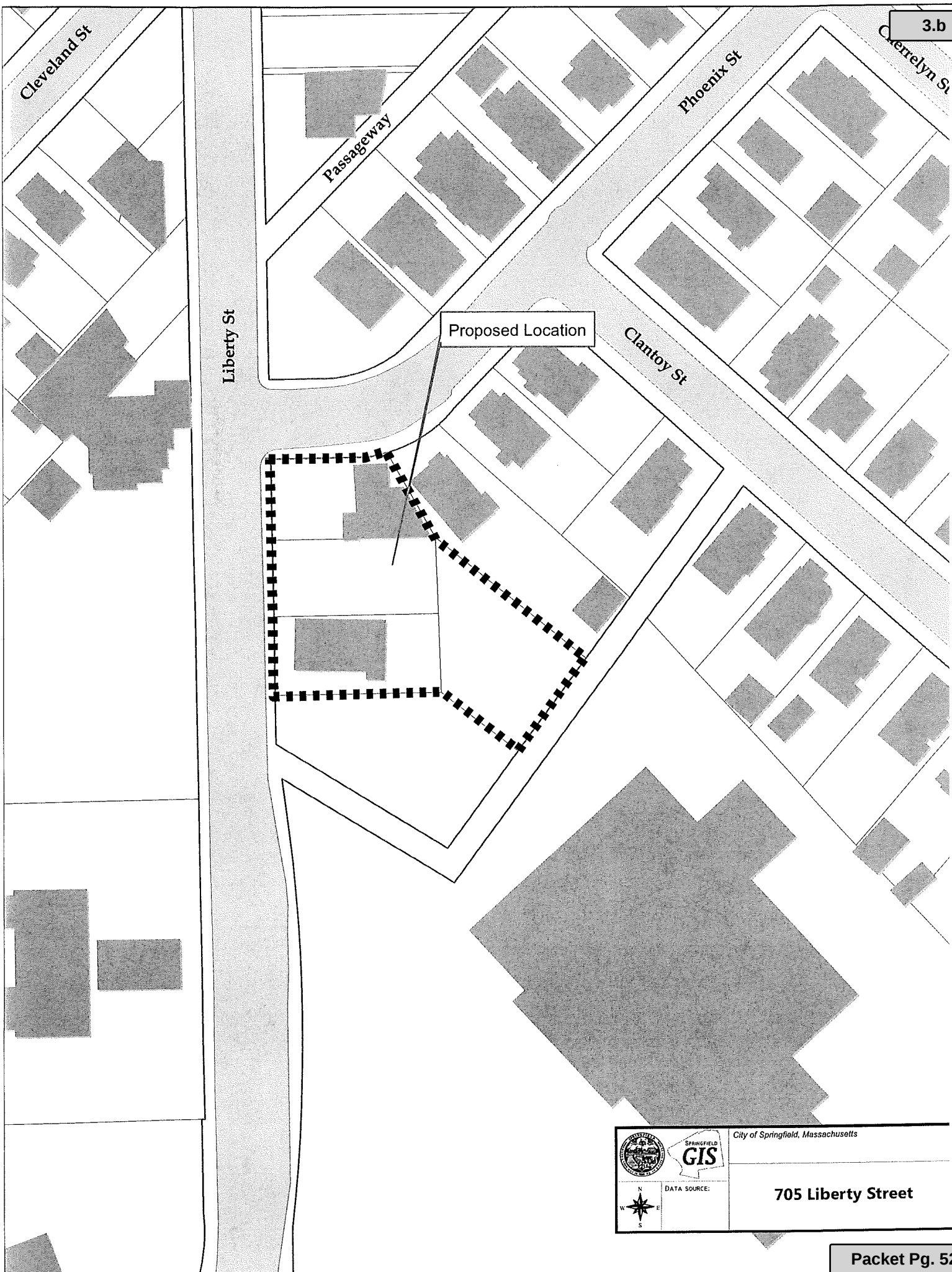


EXTERNAL GREASE INTERCEPTOR (S-08.0)

**Assessors Parcels: 077700525,
077700526, 07770527 & 095470004
695, 697 & 705 Liberty Street**

R L A
R LEVESSAQUE
ASSOCIATES
Landscape Architects
Civil Engineers • Land Surveyors
Environmental Consultants
ph. 413.568.0785 fax: 413.568.0791
40 School Street

Packet Pg. 51



Attachment: Liberty St 705 Jan 2018 (4346 : 705 Liberty Street)

 	City of Springfield, Massachusetts	
	 DATA SOURCE:	705 Liberty Street



City Council
36 Court Street
Springfield, MA 01103

Meeting: 01/22/18 07:00 PM
Department: Economic Development
Category: Special Permit
Prepared By: Phil Dromey
Initiator: Phil Dromey
Sponsors:
DOC ID: 4362

DEFEATED

PETITION (ID # 4362)

For a Special Permit for Motor Vehicle Repairs and Maintenance (Tires Sales and Mounting), at the Property Known as 218 St James Boulevard (11172-0040), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.3(3).

Request:	See Above
Owner:	J.B. Camerlin Real Estate, LLC
By:	J.B. Camerlin
Petitioner:	Francisco Ortiz
By:	Francisco Ortiz

COMMENTS - Current Meeting:

Luis Ortiz, the petitioner, spoke in favor of the permit. He wants to operate a used tire business.

Brian O'connor, from El Paso street, spoke in opposition to the petition. He was concerned about the noise generated by the business and the potential clutter from storing used tires.

Mary Koski, from St. James Avenue, she stated that she heard about the proposal and the met the applicant at a neighborhood council meeting. She stated that the East Springfield neighborhood council is in opposition to this petition.

The petitioner stated that they have new machines that are quieter than older version.

Councilor Fenton asked questions about parking about the location. The petitioner stated that he believed that the parking spaces were adequate for the business. Councilor Fenton stated that he had concerns.

Phil Dromey, Director of the Office of Planning, stated that the office had several concerns with the parking. He did not believe that the petitioner had a solid plan for parking.

Jesse Lederman asked if the petitioner met with the planning department. The petitioner had not met with planning. The petitioner stated that he would not store tires outside of the building and that he has a contract with a company in Connecticut to remove discarded tires.

In response to questions from Councilor Lederman, Mr. Dromey stated that he believes that there is an electrical shop in a portion of the building.

Councilor Shea spoke in opposition to the permit.

In response to question from Councilor Lederman, the petitioner stated that he had a 6 month lease to the property and that he had never operated this type of business in the past.

In response to a question from Councilor Gomez, Mr. Koski stated the board of neighborhood council voted unanimously against the petition.

Councilor Twiggs stated that he hoped that the petitioner could work with the office of economic development to find a suitable location for his business.

Councilor Fenton spoke in opposition to the permit.

The council unanimously adopted the following reasons for denying the special permit:

1. The specific site is not an appropriate location for such a use, structure, or condition.
2. The use as developed will adversely affect the neighborhood.
3. Adequate and appropriate facilities will not be provided for the proper operation of the proposed use.
4. To incorporate the Planning Staff analysis into the decision as the basis of the findings.

RESULT: FAILED [0 TO 13]

NAYS: Williams, Twiggs, Shea, Gomez, Walsh, Fenton, Lederman, Edwards, Ashe, Hurst, Ryan, Allen, Ramos

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

for a special permit for motor vehicle repairs and maintenance (tires sales and mounting), at the property known as 218 St James Boulevard (11172-0040), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.3(3).

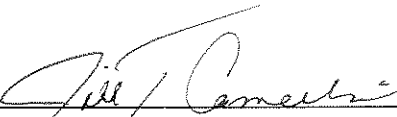
Mailing Address:

680 Ridge Road
 Wilbraham, MA 01095

Owner:

J.B. Camerlin Real Estate, LLC

I hereby certify that I am the owner or acting on behalf of the owner.

BY: 

J.B. Camerlin

Jill T. Camerlin

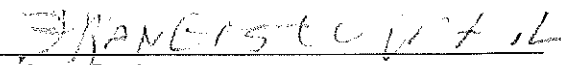
Mailing Address:

70 Walnut Street
 Holyoke, MA 01040

Petitioner:

Francisco Ortiz

I hereby certify that I am the petitioner or acting on behalf of the petitioner.

BY: 

Francisco Ortiz

Attachment: St_James_Boulevard_218_Tax_Formal (4362 : 218 St James Boulevard)

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

December 19, 2017

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 218-226 St James Boulevard -- (11172-0040)

Petitioner: Francisco Ortiz

Property Owner: J B Camerlin Real Estate LLC

A handwritten signature in black ink, appearing to read "Stephen J. Lonergan", is written over a horizontal line.

Stephen J. Lonergan: Treasurer/Collector

Attachment: St_James_Boulevard_218_Tax_Formal (4362 : 218 St James Boulevard)

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**218 ST JAMES BOULEVARD (11172-0040)
MOTOR VEHICLE REPAIR (TIRE SALES AND MOUNTING)**

General Information

Petitioner:	Francisco Ortiz
Request:	Motor vehicle repairs to include tire sales and mounting.
Proposed use of the property:	Motor vehicle repairs.
Property Size:	8,220 s.f.
Compatibility with current planning documents:	The East Springfield Neighborhood Plan shows no changes to this area.
Neighborhood council notification:	East Springfield Neighborhood Council: 12-20-17
Tax Status:	SEE ATTACHED
Site Visit:	1-16-18
Hearing Date:	1-22-18

Staff Analysis

Neighborhood characteristics:

The parcel is currently zoned Business B and is located in an area that is primarily residential uses. The adjacent land uses are:

- To the north are single-family homes zoned Residence A.
- To the south are single-family homes zoned Residence A.
- To the west are single-family homes zoned Residence A.
- To the east are single and two-family homes zoned Residence B.

Site plan review:

The petitioner has requested a special permit for a motor vehicle repair operation (tire sales and mounting) at the property known as 218 St James Boulevard. This site was the former location of General Saw and Lawnmower. The majority of the building is currently vacant; however, there is an electric company in a portion of the building. The petitioner intends to use the rear portion of the building for the tire sales and mounting.

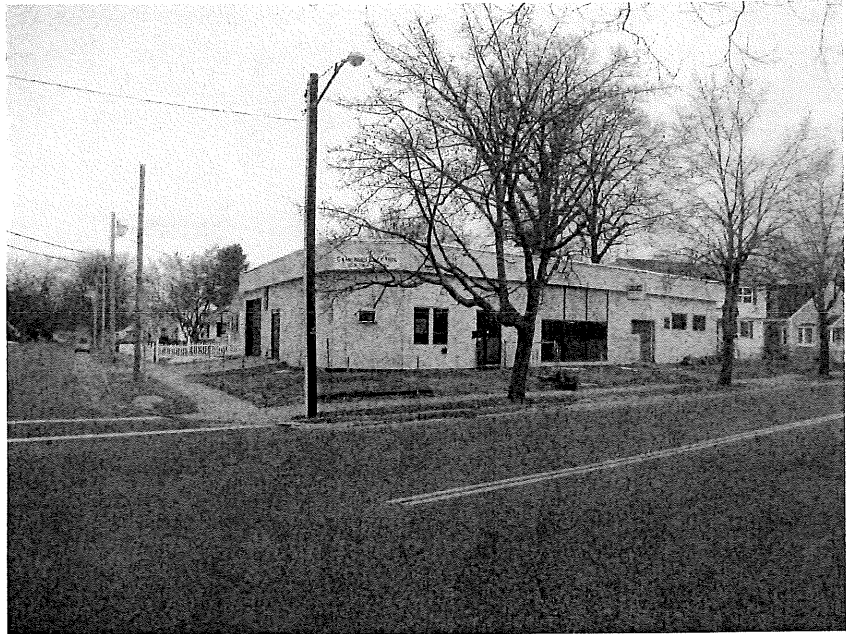
After reviewing the plans, the staff does have some significant concerns over the proposed use. While the staff fully understands that this building had been used for small motor repairs in the past, the staff does have concerns about the proposed motor vehicle repair operation.

First and foremost, is the lack of on-site parking for the proposed use. As can be seen by the attached GIS map, the existing building takes up the majority of the site. As such, this leaves little on-site parking.

Again, while recognizing this was used for small repairs in the past, that operation did not require the leaving of the vehicles, which this operation would. Having no on-site parking means that all vehicles waiting for repair would be required to park on St James Boulevard or on El Paso Street, which is a residential side street.

Secondly, as noted above, this site is surrounded by single-family homes.

As such, the staff does have strong concerns about the potential adverse impacts to this residential neighborhood both in regards to parking as well as potential noise.



Further, after visiting the site, it was noticed that the corner of the building has been damaged and is in need of repair. There has also been a temporary ground sign installed in the front of the building for this proposed use. If this has not been fully permitted, it needs to be removed. Lastly, there is an existing chain link fence in front of the building; however, the fencing has been removed so only the support poles remain. If this chain link fencing is not being re-installed, the poles should be required to be removed. The landscaped area in the front of the building is also in need of maintenance.

Due to the concerns outlined above, the staff is recommendation that this item be continued. This would provide the petitioner an opportunity to address the parking and noise issues. In order to better understand the exact operation that this use will complete, the staff would recommend that an interior layout of the building be provided to indicate that number of vehicles that can be worked on at any one (1) time. Further, while a full site plan would be limited due to the size of the building, the petitioner should attempt to show any and all on-site parking that may possibly be utilized for this use.

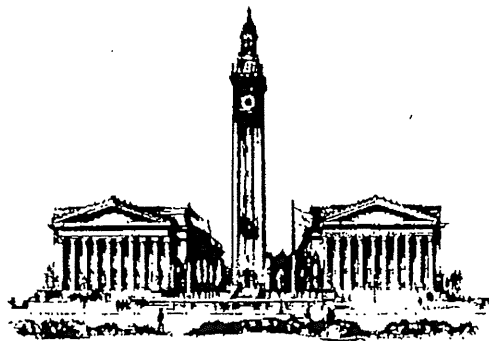
Recommendation

Continue.

IF APPROVED***Recommended Conditions***

1. This special permit is granted to this petitioner only.
2. This special permit is granted solely for motor vehicle repairs (tire sales and mounting) at the property known as 218 St James Boulevard (111720040).
3. The use shall be developed in accordance with the attached, with the additions of conditions #4 through #12.
4. If the existing chain link fencing is not to be replaced, then the support poles shall be removed.
5. The site shall be maintained free of all weeds, trash and debris.
6. All work shall be completed inside the building.
7. There shall be no storage of parts and/or tires outside the building.
8. No work shall be done at this location prior to 8:00AM or later than 6:00PM. No work shall be allowed on Sunday.
9. There shall be no storage of junk vehicles or parts located on the property.
10. There shall be no banner, streamers or other promotional materials placed in outside areas.
11. The building shall be maintained graffiti free.
12. The public sidewalks and tree belts along St James Boulevard and El Paso Street shall be maintained, including snow removal.
13. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in denial of the issuance of a Building Permit and/or Occupancy Permit, revocation of any permits issued and/or enforcement by the Code Enforcement Department punishable by fines of up to \$200 per day for each day a violation exists.

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS



December 19, 2017

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 218-226 St James Boulevard – (11172-0040)

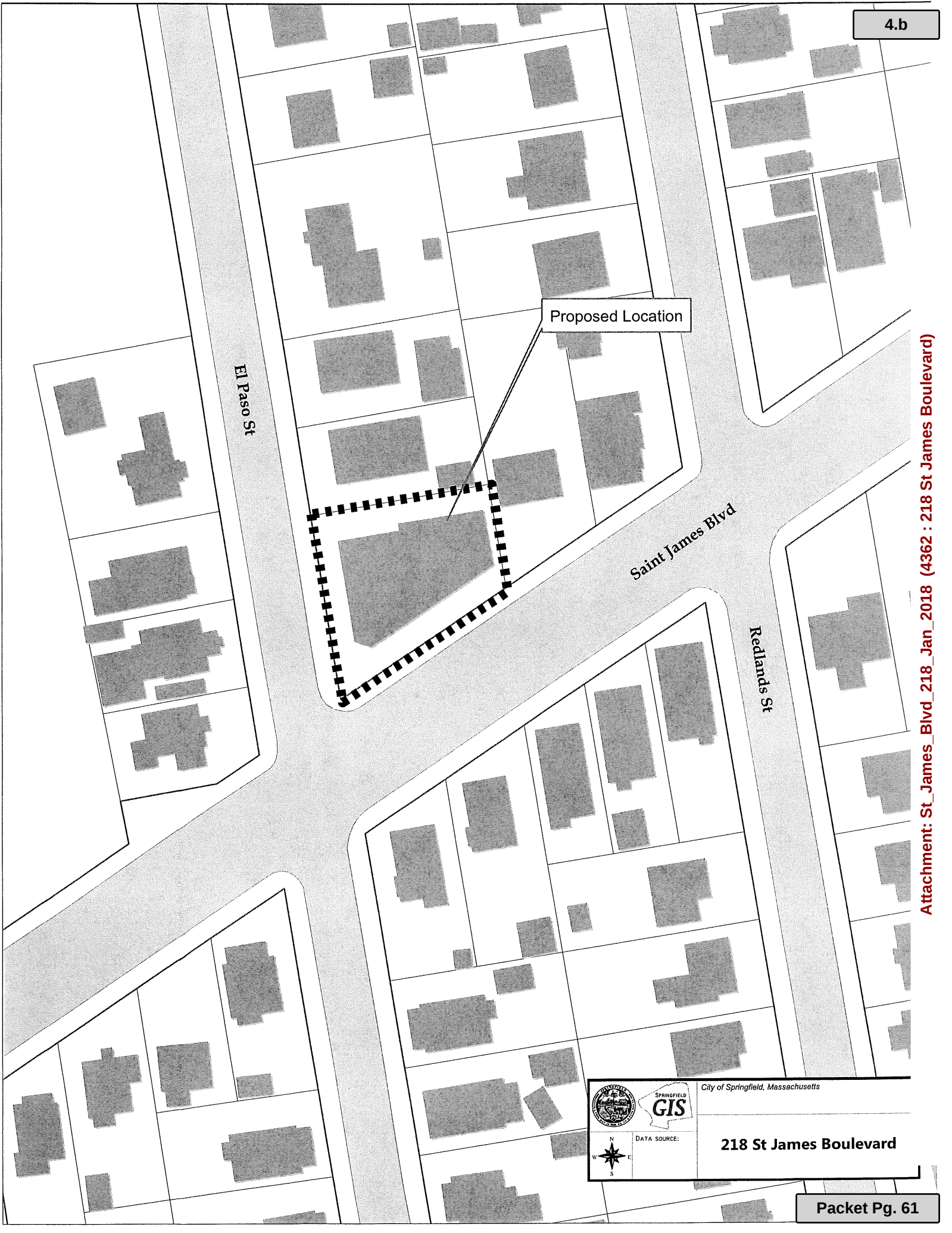
Petitioner: Francisco Ortiz

Property Owner: J B Camerlin Real Estate LLC

A handwritten signature in black ink, appearing to read "Stephen J. Lonergan", is written over a horizontal line.

Stephen J. Lonergan: Treasurer/Collector

Attachment: St_James_Bldv_218_Jan_2018 (4362 : 218 St James Boulevard)

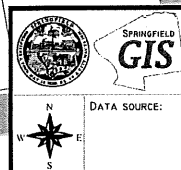


Proposed Location

El Paso St

Saint James Blvd

Redlands St



City of Springfield, Massachusetts

DATA SOURCE:

218 St James Boulevard

Attachment: St_James_Blvd_218_Jan_2018 (4362 : 218 St James Boulevard)

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

to amend the Springfield Zoning Ordinance by amending Article 4, Section 4.7 by adding Section 4.7.110, to read as follows and amending Article 4, Use Table 4-4 by adding Section 13.6:

Section 4.7.110 Temporary Moratorium on Marijuana Establishments

4.7.111 Purpose

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. This law was amended on December 30, 2016 by extending certain deadlines by six (6) months and the Cannabis Control Commission is required to issue regulations regarding implementation by March 15, 2018 and to begin accepting applications for licenses on April 1, 2018.

Currently under the Zoning Bylaw, Marijuana Establishments and Marijuana Retailers are not a permitted use in the City of Springfield and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the City of Springfield in regulating Marijuana Establishments and Marijuana Retailers. Further, the legislation establishes two (2) important provisions that require ballot action by the City of Springfield prior to the adoption of zoning: *First, the City must, by ballot, determine whether it will limit the number of Marijuana Establishments and Marijuana Retailers within the City; and, second, by ballot, the City can determine whether to allow on-site consumption of marijuana products should the City decide to allow such facilities within the City. The ballot measure for on-site consumption cannot occur prior to November 6, 2018, the next biennial state election.*

The regulation of Marijuana Establishments and Marijuana Retailers raise novel and complex legal, planning, and public safety issues. The City of Springfield needs time to study and consider the regulation of Marijuana Establishments and Marijuana Retailers in order to address such novel and complex issues and to address the potential impact of the State regulations on local zoning. The City of Springfield also needs time to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Marijuana Establishments and Marijuana Retailers and other uses related to the regulation of marijuana. The City of Springfield intends to adopt a temporary moratorium on the use of land and structures in the City of Springfield for Marijuana Establishments and Marijuana Retailers so as to allow the City of Springfield sufficient time to engage in a planning process to address effects of such structures and uses in the City of Springfield and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

4.7.112 Definitions

For purposes of this moratorium, the definitions set forth in G.L. c. 94G, § 1 shall apply.

4.7.111 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the City of Springfield hereby adopts a temporary moratorium on the use of land or structures for Marijuana Establishments as defined in G.L.c. 94G, § 1 and other uses related to recreational marijuana. The moratorium shall be in effect until December 31, 2018 or until such time as the City of Springfield adopts Zoning amendments that regulates Marijuana Establishments, whichever occurs sooner. During the moratorium period, the City of Springfield shall continue to address the potential impacts of marijuana, consider the Cannabis Control Commission regulations regarding marijuana establishments and marijuana retailers and related uses, determine whether the City of Springfield shall restrict any or all types of such marijuana establishments and marijuana retailers, and consider such other and further matters as set forth in G.L. c. 94G, § 3 and G.L. c. 64N, § 3.

Mailing Address:

City of Springfield
36 Court Street
Springfield, MA 01103

Petitioner:

BY: Lisa V. Miner
Springfield Planning Board

BY: Rico Danielle
Springfield Planning Board

BY: Bonnamy Mcn
Springfield Planning Board

BY: Lee P. Florio
Springfield Planning Board

BY: J. McQuil
Springfield Planning Board

BY: Culbo
Springfield Planning Board

BY: _____
Springfield Planning Board

BY: _____
Springfield Planning Board

Article 4, Use Table 4-4

13.6	Recreational Marijuana Establishments	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	4.7.110
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CITY OF SPRINGFIELD

IN THE YEAR TWO THOUSAND AND EIGHTEEN

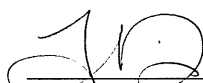
AN ORDINANCE

AMENDING THE ENTIRE CITY OF THE BUILDING ZONING MAP

Be it ordained by the City Council of the City of Springfield as follows:

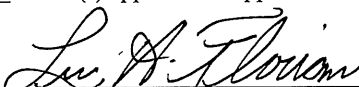
SECTION 1. The Zoning Ordinance of the City of Springfield, Massachusetts entitled "An Ordinance for Consolidating and Arranging, Enlarging, Modifying and Amending the Ordinances of the City Restricting Buildings, Structures, and Premises According to Their Use or Construction to Specified Parts of the City", text enacted, May 28, 2013, effective August 26, 2013, as amended, is hereby further amended by amending Article 4 by adding Section 4.7.110- "Temporary Moratorium on Marijuana Establishments" and amending Article 4, Use-Table 4-4 by adding Section 13.6. "The entire City Building Zone Map of the City of Springfield."

Approved as to Form:


Associate City Solicitor

In accordance with Mass. Gen. Laws c. 40A, section 5, the Planning Board held a hearing on January 3, 2018, regarding the above Ordinance amendment.

1 Person(s) appeared in favor, and 0 Person(s) appeared in opposition.


Leo Florian, Vice Chairperson



CITY OF SPRINGFIELD

IN THE YEAR TWO THOUSAND AND EIGHTEEN

AN ORDINANCE

AMENDING THE ENTIRE CITY OF THE BUILDING ZONING MAP

SECTION 1. The Zoning Ordinance of the City of Springfield, Massachusetts entitled “An Ordinance for Consolidating and Arranging, Enlarging, Modifying and Amending the Ordinances of the City Restricting Buildings, Structures, and Premises According to Their Use or Construction to Specified Parts of the City”, text enacted, May 28, 2013, effective August 26, 2013, as amended, is hereby further amended by amending Article 4 by adding Section 4.7.110- “Temporary Moratorium on Marijuana Establishments” and amending Article 4, Use-Table 4-4 by adding Section 13.6. “The entire City Building Zone Map of the City of Springfield.”

**REPORT TO CITY COUNCIL
ZONE CHANGE HEARING**

PETITION: #3194
SECTION: Entire City

DATE: January 4, 2018

To the Honorable Mayor and City Council of the City of Springfield, Massachusetts, the Planning Board submits the following report on the Zone Change Petition, which was referred to the Board for its recommendation:

PETITIONER: Springfield Planning Board

ADDRESS: Entire City

CHANGE REQUESTED: Amending Article 4 by adding Section 4.7.110- "Temporary Moratorium on Marijuana Establishments" and amending Article 4, Use-Table 4-4 by adding Section 13.6. "The entire City Building Zone Map of the City of Springfield."

PETITIONER'S PURPOSE STATEMENT: To provide the opportunity for the City of Springfield to study the potential impacts of recreational marijuana sales on adjacent uses and on the general public health, safety and welfare and to develop zoning and/or other applicable regulations that appropriately address these considerations consistent with statewide regulations and procedures.

DATE OF PUBLIC HEARING: January 3, 2018

DATE OF FINAL DECISION: January 3, 2018

BOARD MEMBERS PRESENT and COUNT: seven (7): Mr. Cuningham, Mr. Mineo, Mr. Daniele, Ms. Morin, Mr. Florian, Ms. McQuade and Ms. Choi

FINAL MOTION: Approve

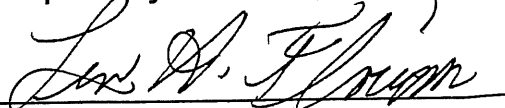
IN FAVOR: seven (7): Mr. Cuningham, Mr. Mineo, Mr. Daniele, Ms. Morin, Mr. Florian, Ms. McQuade and Ms. Choi

OPPOSED: zero (0)

ABSTAINED: N/A

RECOMMENDATION: APPROVE

Respectfully submitted,


Leo Florian, Vice Chairperson

Attachment: 3194_Temporary_Moratorium_PB_Report_Jan_2018 (4341 : Temporary Moratorium on Marijuana Establishments)

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A ZONE CHANGE**

TEMPORARY MORATORIUM ON MARIJUANA ESTABLISHMENTS

GENERAL INFORMATION

Petitioner:	Springfield Planning Board
Request:	The proposal is to amend Article 4 of the Springfield Zoning Ordinance by adding Section 4.7.110 and amending Article 4, Use-Table 4-4 by adding Section 13.6 (see attached for full language).
Location:	City Wide
Parcel Size:	N/A
Purpose:	Provide the city with an opportunity to review and assess the proposed impacts of the recently voter approved sales of recreational marijuana to ensure compatibility with adjacent land uses and on general public health, safety and welfare.
Surrounding Land Use and Zoning:	N/A
Comprehensive/Neighborhood Plan:	N/A
Tax Status:	N/A
Planning Board Hearing:	1-3-18

SPECIAL INFORMATION

Traffic & Parking:	n/a
Physical Characteristics:	n/a
Other Notes:	n/a

ANALYSIS

As the Planning Board/City Council is aware, by vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. This law was amended on December 30, 2016 by extending certain deadlines by six (6) months and the Cannabis Control Commission (CCC) is required to issue regulations regarding implementation by March 15, 2018 and to begin accepting applications for licenses on April 1, 2018. The CCC recently issued a set of "draft" regulations (see attached), however, these are not anticipated to be finalized until March 2018.

Currently under the City of Springfield's Zoning Bylaws, Marijuana Establishments and Marijuana Retailers are not a permitted use and any regulations promulgated by the CCC are expected to provide guidance to the City of Springfield in regulating Marijuana Establishments and Marijuana Retailers.

The regulation of Marijuana Establishments and Marijuana Retailers raise novel and complex legal, planning, and public safety issues. As such, the City of Springfield needs time to study and consider the regulation of Marijuana Establishments and Marijuana Retailers in order to address such novel and complex issues and to address the potential impact of the State regulations on local zoning. The proposed temporary moratorium on the use of land and structures in the City of Springfield for Marijuana Establishments and Marijuana Retailers will allow the City of Springfield sufficient time to address effects of such structures and uses in the City of Springfield and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives. As noted above, this time is specifically needed as the state regulations are not anticipated to be finalized until March, with applications set to start being accepted on April 1, 2018. It should be noted that a temporary moratorium has also been recommended by the Pioneer Valley Planning Commission (PVPC) and the State Attorney General's Office.

The proposed interim regulations would restrict this use until December 31, 2018 or until such time that superseding regulations have been adopted, whichever is sooner.

It is important to note that "moratoriums" have been utilized a number of times in the City of Springfield over the past several years. As noted above, moratoriums allow communities the opportunity to establish regulations for uses not anticipated under the current zoning ordinance. Examples of past moratoriums in Springfield include cell towers, adult entertainment, digital billboards and most recently medical marijuana.

RECOMMENDATION

Approve.

Cannabis Control Commission

Draft Regulations

12-27-17

935 CMR 500.000: ADULT USE OF MARIJUANA

- 500.001: Purpose
- 500.002: Definitions
- 500.005: Fees
- 500.030: Registration of Marijuana Establishment Agents
- 500.031: Denial of a Marijuana Establishment Agent Registration Card
- 500.032: Revocation of a Marijuana Establishment Agent Registration Card
- 500.033: Void Marijuana Establishment Agent Registration Cards
- 500.040: Leadership Ratings Program
- 500.050: Marijuana Establishments
- 500.100: Applications for Marijuana Establishment Licenses
- 500.101: Application Requirements
- 500.102: Action on Applications
- 500.103: Licensure and Renewal
- 500.104: Notification of Change
- 500.105: General Operational Requirements for Marijuana Establishments
- 500.110: Security Requirements for Marijuana Establishments
- 500.120: Additional Operating Requirements for Marijuana Cultivation
- 500.130: Additional Operating Requirements for Marijuana Product Manufacturers
- 500.140: Additional Operating Requirements for Storefront and Delivery Retail Sale
- 500.145: Additional Operating Requirements for Social Consumption
- 500.150: Edibles
- 500.160: Testing
- 500.170: Municipal Requirements
- 500.200: Regulations for Martha's Vineyard and Nantucket
- 500.300: Inspections and Compliance
- 500.301: Unannounced Purchase for Purpose of Testing (Secret Shopper Program)
- 500.302: Complaints Process
- 500.310: Deficiency Statements
- 500.320: Plans of Correction
- 500.330: Marijuana Establishments: Limitation of Sales
- 500.340: Summary Cease and Desist Order and Quarantine Order
- 500.350: Summary Suspension Order
- 500.400: Marijuana Establishments: Grounds for Denial of Initial Application for License
- 500.415: Void Marijuana Establishment License
- 500.450: Marijuana Establishment License: Grounds for Denial of Renewal Applications and Revocation
- 500.500: Administrative Appeals
- 500.650: Non-Conflict with Other Law
- 500.700: Waivers
- 500.750: Notice
- 500.800: Severability
- 500.900: Background Check Suitability Standard for Licensure and Registration
- 500.901: Suitability Standard for Licensure
- 500.902: Suitability Standard for Registration as a Marijuana Establishment Agent

500.903: Suitability Standard for Registration as a Laboratory Agent

DRAFT AS APPROVED 12-21-17

500.001: Purpose

The purpose of 935 CMR 500.000 is to implement St. 2016, c. 334, *The Regulation and Taxation of Marijuana Act*, as amended by St. 2017, c.55, *An Act To Ensure Safe Access To Marijuana*.

500.002: Definitions

For the purposes of 935 CMR 500.000, the following terms shall have the following meanings:

Accredited Medical Marijuana Treatment Center: a medical marijuana treatment center that has received a provisional or final certificate of registration from the Department of Public Health.

Act means 2016, c. 334, *The Regulation and Taxation of Marijuana Act*, as amended by St. 2017, c.55, *An Act To Ensure Safe Access To Marijuana*.

Area of Disproportionate Impact: A geographic area identified by the Commission for the purposes identified in 935 CMR 500.040 and 500.100.

Arming Station means a device that allows control of a security alarm system.

Beverage means a liquid that is intended for drinking.

Card Holder means a registered qualifying patient, personal caregiver, laboratory agent, or Marijuana Establishment Agent of a Marijuana Establishment who has been issued and possesses a valid registration card.

License means the certificate issued by the Commission that confirms that a Marijuana Establishment has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c.55 and 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final license.

Cannabinoid means any of several compounds produced by marijuana plants that have medical and psychotropic effects.

Cannabinoid profile means the amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a marijuana product. Amounts of other cannabinoids may be required by the Commission.

Citizen Review Committee: A committee appointed by the Commission for the purpose of providing experiential guidance regarding Social Equity Program logistics and outcomes, and to

make recommendations regarding the use of Community Reinvestment Funds. The nine-person Citizen Review Committee will be appointed by the Cannabis Control Commission Executive Director by January 31, 2018 and serve 2-year terms.

Close associate means 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.

Commercially Available Candy means any product that is manufactured and packaged in the form of bars, drops, or pieces and that includes a sweetened mixture of chocolate, caramel, nougat, nuts, fruit, cream, honey, marshmallow or any similar combination to create a dessert-like confection.

Community Reinvestment Funds: Tax revenue funds subject to appropriation by the legislature and available after implementation, administration, and enforcement of state marijuana law have been covered in accordance with Section 14(b) of Chapter 94G. The Citizen Review Committee will make recommendations for the administration of funds for the following purposes: programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses pursuant to chapter 94C.

Consumer means a person who is at least 21 years of age.

Controlling person means an officer, board member or other individual who has a financial or voting interest of 10 per cent or greater in a Marijuana Establishment.

Commission means the Massachusetts cannabis control commission established by section 76 of chapter 10 or its designee.

Craft marijuana cultivator cooperative means a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments but not to consumers.

Cultivation batch means a collection of marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical propagation and cultivation

treatment, including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. The marijuana licensee shall assign and record a unique, sequential alphanumeric identifier to each cultivation batch for the purposes of production tracking, product labeling and product recalls.

Duress Alarm means a silent security alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system.

Edible Marijuana Products means a Marijuana Product that is to be consumed by humans by eating or drinking.

Enclosed, Locked Area means a closet, room, greenhouse, or other indoor or outdoor area equipped with locks or other security devices, accessible only to consumers 21 years of age or older Marijuana Establishment Agents, registered qualifying patients, or caregivers.

Executive means the chair of a board of directors, chief executive officer, executive director, president, senior director, other officer, and any other executive leader of a Marijuana Establishment.

Finished marijuana means usable marijuana, cannabis resin or cannabis concentrate.

Flowering means the gametophytic or reproductive state of marijuana in which the plant produces flowers, trichomes, and *cannabinoids* characteristic of marijuana.

Healthcare Provider means a certifying physician, certifying certified Nurse Practitioner or certifying physician's assistant qualified under 105 CMR 725.000 to issue written certifications for the medical use of marijuana.

Hemp means the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Holdup Alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Host community means a municipality in which a marijuana establishment is located or in which an applicant has proposed locating a marijuana establishment.

Immediate Family Member means a spouse, parent, child, grandparent, grandchild, or sibling, including in-laws.

Independent Testing Laboratory means a laboratory that is licensed by the 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 Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the 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 M.G.L. c.94C, § 34.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans, or such other allergen identified by the Commission.

Laboratory Agent means an employee of an independent testing laboratory who transports, possesses or tests marijuana for the purpose of testing in compliance with 935 CMR 500.000

Licensee means a person or entity licensed by the commission to operate a Marijuana Establishment under this chapter.

Limited Access Area means a building, room, or other indoor or outdoor area on the registered premises of a Marijuana Establishment where marijuana, MIPs, or marijuana by-products are cultivated, stored, weighed, packaged, processed, or disposed, under the control of an Marijuana Establishment, with access limited to only those Marijuana Establishment Agents designated by the Marijuana Establishment.

Manufacture means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

Marijuana or Marihuana means 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 that "Marijuana" shall not include: (1) 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; (2) hemp; or (3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food,

drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

Marijuana accessories means equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana Cultivator means 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 Delivery-Only Retailer means an entity 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.

Marijuana Establishment means a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

Marijuana Establishment Agent means a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to an Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Marijuana Product Manufacturer means 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 means 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 Retailer means 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 means a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishment and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises only.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, not for sale to consumers.

Massachusetts Resident means a person whose primary residence is located in Massachusetts.

Medical Marijuana Treatment Center means a not-for-profit entity registered under 105 CMR 725.100, also known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.

Member means a member of a non-profit entity incorporated pursuant to M.G.L. c. 180.

Micro-Business means a marijuana establishment that is licensed to act as a: licensed marijuana cultivator in an area less than 5,000 square feet; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each such license.

Mycotoxin means a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For the purposes of this chapter, mycotoxin shall include alfatoxin B1, alfatoxin B2, alfatoxin G1, alfatoxin G2, and ochratoxin A.

Panic Alarm means an audible security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a law enforcement response.

Paraphernalia means “drug paraphernalia” as defined in M.G.L. c. 94C, § 1.

Person means an individual or a non-profit entity.

Personal Caregiver means a person, registered by the Commission, who is at least 21 years old, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying healthcare provider. A visiting nurse, personal care attendant, or home health aide providing care to a registered qualifying patient may serve as a personal caregiver, including to patients under 18 years of age as a second caregiver.

Premises means any indoor or outdoor location over which a social consumption operation or its agents may lawfully exert substantial supervision or control over entry, property or the conduct of persons.

Priority Applicant means a registered marijuana dispensary with a final or provisional certificate of registration in good standing with the Department of Public Health or Commission, as applicable ("Priority RMD Applicant"), or an applicant who demonstrates experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under chapter 94C ("Priority Justice Applicant").

Process or processing means to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in this section.

Production Area means any limited access area within the Marijuana Establishment where marijuana is handled or produced in preparation for sale.

Production batch means a batch of finished plant material, cannabis resin, cannabis concentrate or marijuana-infused product made at the same time, using the same methods, equipment and ingredients. The licensee shall assign and record a unique, sequential alphanumeric identifier to each production batch for the purposes of production tracking, product labeling and product recalls. All production batches shall be traceable to 1 or more marijuana cultivation batches.

Propagation means the reproduction of marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License means a certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed healthcare provider as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified

pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

Real-Time Inventory means using a single electronic system to capture everything that happens to an individual marijuana plant, from seed and cultivation, through growth, harvest and preparation of MIPs, if any, to final sale of finished products. This system shall chronicle every step, ingredient, activity, transaction, and Marijuana Establishment Agent, registered qualifying patient, or personal caregiver who handles, obtains, or possesses the product. This system shall utilize a unique plant identification and unique batch identification.

Registered Qualifying Patient means a qualifying patient who has applied for and received a registration card from the Commission.

Registrant means the holder of a registration card or a license, or a certifying healthcare provider registered with the Department of Public Health.

Registration Card means a Medical Use of Marijuana Program identification card issued by the Department of Public Health to a registered qualifying patient, personal caregiver, institutional caregiver, registered marijuana dispensary agent or laboratory agent, or issued by the Commission to a Marijuana Establishment Agent or laboratory agent. The registration card facilitates verification of an individual registrant's status. The registration card allows access into appropriate elements of a Commission-supported, interoperable database in which detailed information regarding certifications and possession criteria are stored. The registration card facilitates identification for the Commission and law enforcement authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties for the medical use of marijuana in compliance with Ch. 369 of the Acts of 2012, 105 CMR 725.000, 935 CMR 500.000, and the Act.

Research Facility means an entity licensed to do engage in research projects by the Commission.

Residual solvent means a volatile organic chemical used in the manufacture of a marijuana product and that is not completely removed by practical manufacturing techniques.

Social Consumption Operation means an entity licensed to purchase or otherwise acquire marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption or use on the premises, except as otherwise authorized herein.

Social Equity Training and Technical Assistance Fund means a fund established and administered by the Commission for the purposes of procuring management, recruitment, and

employment training for residents interested in participating in the cannabis industry and technical assistance for existing Social Equity Program licensees.

Terpenoid means an isoprene that are the aromatic compounds found in cannabis, including, but not limited to: limonene, myrcene, pinene, linalool, eucalyptol, δ -terpinene, β -caryophyllene, caryophyllene oxide, nerolidol and phytol.

Unreasonably impracticable means that the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a Marijuana Establishment.

Usable Marijuana means the fresh or dried leaves and flowers of the female marijuana plant and any mixture or preparation thereof, including MIPs, but does not include the seedlings, seeds, stalks, roots of the plant, or marijuana rendered unusable in accordance with 935 CMR 500.105(L)(3)(d).

Vegetation means the sporophytic state of the marijuana plant, which is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for flowering.

Visitor means an individual, other than a Marijuana Establishment Agent authorized by the Marijuana Establishment, to be on the premises of a Marijuana Establishment for a purpose related to Marijuana Establishment operations and consistent with the objectives of the Act and 935 CMR 500.000, provided, however, that no such individual shall be under 21 years of age.

500.005: Fees and Fines

(A) Marijuana Establishment Application and License Fees

- (1) Except for Equity Applicants, each applicant for licensure as a Marijuana Establishment, shall pay to the Commission a nonrefundable application fee and an annual license fee, not including the costs associated with any criminal background checks required under 935 CMR 500.100(A)(2); 500.100(B)(3); or 935 CMR 500.030. The fee for equity applicants in accordance with the criteria included at 935 CMR 500.101(A)(5) shall be waived.
- (2) Application fees are waived for Equity Applicants, except that such applicants shall pay to the Commission the costs associated with any background checks.
- (3) Application and Annual License Fee Schedule:

License Type	Application Fee	Annual License Fee
Cultivation and Craft Marijuana Cultivator Cooperative	\$100	\$1,000
Tier I	\$250	\$2,500
Tier II	\$400	\$4,000
Tier III	\$600	\$5,000 or more
Tier IV		
Microbusiness	\$300	50% of applicable license fees
Manufacturing	\$300	\$5,000
Independent Testing Laboratory	\$300	\$5,000
Retail (brick and mortar)	\$300	\$5,000
Retail (delivery only)	\$300	\$2,500
Third Party Transporter	\$300	\$5,000
Existing Licensee Transporter	\$300	\$5,000
Research	\$300	\$1,000
Social Consumption – Primary Use	\$300	\$5,000
Social Consumption – Mixed Use	\$300	Sliding Scale

(4) The annual fee for Cultivation Licenses and Craft Marijuana Cooperative Licenses shall be increased by \$.25 per square foot for Tier IV licenses where the square footage exceeds 10,000 square feet.

(5) The application fee for a Registered Marijuana Dispensary Conversion shall be \$450, and the annual license fee shall be the sum of the applicable cultivation, retail, and manufacturing license fees.

(6) Other fees:

Name Change Fee	\$100
Location Change Fee	50% of applicable License Fee
Change in Building Structure Fee	\$500
Change in Ownership Fee	\$500

(B) Registration Card Holder Fees

(1) An applicant for a Registration Card as a Marijuana Establishment Agent, a Marijuana-Related Business Agent, an Independent Testing Laboratory Agent, or any other position designated as an agent by the Commission shall pay a non-refundable application fee of \$50 with any such application.

(2) An applicant for a renewal of a Registration Card as a Marijuana Establishment Agent, a Marijuana-Related Business Agent, an Independent Testing Laboratory

Agent, or any other position designated as an agent by the Commission shall pay a fee of \$50.

(C) Fingerprint-Based Criminal Background Checks Fees

- (1) All persons required to submit fingerprints shall pay a fee to be established by the Secretary of Administration and Finance, in consultation with the Secretary of Public Safety and the Commission, to offset the costs of operating and administering a fingerprint-based criminal background check system. The Secretary of Administration and Finance, in consultation with the Secretary of Public Safety and the Commission, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee.
- (2) The Commission may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship.
- (3) Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29 of the General Laws.

(D) Fines

- (1) The Commission may issue an order to a licensee to show cause as to why a fine or other financial penalty against a licensee should not be imposed for any acts or omissions which are in violation of any provision of the Act or any regulation adopted pursuant thereto. Each such order:
 - (a) shall be in writing;
 - (b) shall describe with particularity the nature of the violation, including a reference to the law or regulation determined to have been violated;
 - (c) may contain an assessment of an administrative fine of up to \$25,000, and/or an order of abatement fixing a reasonable time for abatement of the violation;
 - (d) shall be served personally or by certified mail; and
 - (e) shall inform the licensee or person that he or she may request an adjudicatory hearing.
- (2) Failure to pay a fine within 30 calendar days of the date of the assessment, unless the order is appealed pursuant to 935 CMR 500.500, may result in further action being taken by the Commission including, but not limited to, suspension or revocation of a license. If an order is not appealed and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine.
- (3) Nothing in this section shall be deemed to prevent the Commission from issuing an order to suspend or revoke a license or registration card where grounds for such suspension or revocation exist.

- (4) An administrative fine up to \$25,000 may be assessed for each violation, but the decision to impose any fine shall include the factors considered by the Commission in setting the amount of the fine. Each day during which a violation continues may constitute a separate offense, and each provision of 935 CMR 500.000 or the Act that is violated may constitute a separate offense.
- (5) The Commission, in determining the amount of sanctions to impose may consider mitigating circumstances, including but not limited to:
 - (a) the licensee's good faith efforts to avoid a violation;
 - (b) the licensee's cooperation in the investigation;
 - (c) the licensee's willingness to accept responsibility;
 - (d) the licensee's status as current or past leader pursuant to the Leadership Ratings Program under 935 CMR 500.040 and
 - (e) the licensee's compliance with the training requirements pursuant to 935 CMR 500.105(B).
- (E) All fees, fines, and penalties collected by or on behalf of the Commission, except for fingerprint-based criminal background checks, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund.

500.030: Registration of Marijuana Establishment Agents

- (A) A Marijuana Establishment shall apply for Marijuana Establishment Agent registration for all board members, directors, employees, executives, managers, and volunteers who are associated with that Marijuana Establishment. The Commission shall issue a Marijuana Establishment Agent registration card to each individual determined to be suitable for registration. All such individuals shall:
 - (a) Be at least 21 years old;
 - (b) Have not been convicted of an offense in the Commonwealth involving the distribution of controlled substances to minors, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority; and
 - (c) Be determined to be suitable for registration consistent the provisions of 935 CMR 500.902.
- (B) An application for registration of a Marijuana Establishment Agent shall include:
 - (a) The full name, date of birth, and address of the individual;

- (b) All aliases used previously or currently in use by the individual, including maiden name, if any;
 - (c) A copy of the Marijuana Establishment Agent's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c.138 §34B, or other verifiable identity document acceptable to the Commission;
 - (d) An attestation that the individual will not engage in the diversion of marijuana;
 - (e) Written acknowledgement by the Marijuana Establishment Agent applicant of any limitations on his or her authorization to cultivate, harvest, prepare, package, possess, transport, and dispense marijuana in the Commonwealth;
 - (f) Background information, including, as applicable:
 - i. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or another state, the United States, or a military, territorial, or Indian tribal authority, whether for a felony or misdemeanor and which resulted in conviction, or guilty plea, or plea of nolo contendere, or admission of sufficient facts;
 - ii. A description and the relevant dates of any civil or administrative action under the laws of the Commonwealth, another state, the United States, or a military, territorial, or Indian tribal authority relating to any profession or occupation or fraudulent practices;
 - iii. A description and relevant dates of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a license or registration, for any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction;
 - iv. A description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by another state, the United States or a military, territorial, or Indian tribal authority with regard to any professional license or registration held by the applicant for Marijuana Establishment Agent; and
 - (g) A non-refundable application fee paid by the Marijuana Establishment with which the Marijuana Establishment Agent will be associated; and
 - (h) Any other information required by the Commission.
- (C) A Marijuana Establishment executive registered with the Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04(2) shall submit to the Commission a Criminal Offender Record Information (CORI) report and any other background check information required by the Commission for each individual for whom the Marijuana Establishment seeks a dispensary agent registration, obtained within 30 days prior to submission.

- (D) A Marijuana Establishment shall notify the Commission no more than one business day after a Marijuana Establishment Agent ceases to be associated with the Marijuana Establishment. The Marijuana Establishment Agent's registration shall be immediately void when the Agent is no longer associated with the Marijuana Establishment.
- (E) A registration card shall be valid for one year from the date of issue, and may be renewed on an annual basis upon a determination by the Commission that the applicant for renewal continues to be suitable for registration.
- (F) After obtaining a registration card for a Marijuana Establishment Agent, a Marijuana Establishment is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five (5) business days of any changes to the information that the Marijuana Establishment was previously required to submit to the Commission or after discovery that a registration card has been lost or stolen.
- (G) A Marijuana Establishment Agent shall carry the registration card associated with the appropriate Marijuana Establishment at all times while in possession of marijuana, including at all times while at a Marijuana Establishment or while transporting marijuana.
- (H) A Marijuana Establishment Agent affiliated with multiple Marijuana Establishments shall be registered as a Marijuana Establishment Agent by each Marijuana Establishment and shall be issued a registration card for each Establishment.

500.031: Denial of a Registration Card

Each of the following, in and of itself, constitutes full and adequate grounds for denial of a registration card for a Marijuana Establishment Agent:

- (A) Failure to provide the information required in 935 CMR 500.030 for a registration card;
- (B) Provision of misleading, incorrect, false, or fraudulent information on the application;
- (C) Failure to meet the requirements set forth in 935 CMR 500.030 for a registration card;
- (D) Revocation or suspension of a registration card in the previous 6 months;
- (E) Failure by the Marijuana Establishment to pay all applicable fees; or
- (F) Other grounds, as determined by the Commission, that are inconsistent with the intent of 935 CMR 500.000 or the Act; provided, however, that the Commission shall notify the applicant of the grounds prior to denial and provide a reasonable opportunity to cure the defect.

500.032: Revocation of a Marijuana Establishment Agent Registration Card

- (A) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of a registration card issued to a Marijuana Establishment Agent:

- (1) Submission of misleading, incorrect, false, or fraudulent information in the application or renewal application;
 - (2) Violation of the requirements of the Act or 935 CMR 500.000;
 - (3) Fraudulent use of a Marijuana Establishment Agent registration card;
 - (4) Selling, distributing, or giving marijuana to any unauthorized person;
 - (5) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate a Marijuana Establishment Agent registration card;
 - (6) Failure to notify the Commission within 5 business days after becoming aware that the registration card has been lost, stolen, or destroyed;
 - (7) Failure to notify the Commission within 5 business days after a change in the registration information contained in the application or required by the Commission to have been submitted in connection with the application for a Marijuana Establishment Agent registration card, including open investigations or pending actions as delineated in 935 CMR 500.902, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent;
 - (8) Conviction, guilty plea, plea of nolo contendere, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority; or
 - (9) Conviction, guilty plea, plea of nolo contendere or admission to sufficient facts in the Commonwealth, or a like violation of the laws of another state, to an offense as delineated in 935 CMR 500.902, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent;
- (B) Other grounds, as determined by the Commission, that are inconsistent with the intent of 935 CMR 500.000 or the Act; provided, however, that the Commission shall notify the applicant of the grounds prior to revocation pursuant to 935 CMR 500.500.

500.033: Void Registration Cards

- (A) A registration card issued to a Marijuana Establishment Agent or Laboratory Agent shall be void when:
- (1) the Agent has ceased to be associated with the Marijuana Establishment or Independent Testing Laboratory that applied for and received the Agent's registration card;

- (2) the card has not been surrendered upon the issuance of a new registration card based on new information; or
- (3) The Agent is deceased.

(B) A void registration card is inactive and invalid.

500.040: Leadership Rating Program for Marijuana Establishments and Marijuana-Related Businesses

(A) Leadership Rating Categories: In a time and manner to be determined by the Commission, licensees will be eligible to earn leadership ratings in the following categories:

- (1) Social Justice Leader
- (2) Local Employment Leader
- (3) Energy and Environmental Leader
- (4) Compliance Leader

(B) Leadership Rating Application

- (1) Marijuana establishments annually submit information, in a time and manner determined by the Commission, demonstrating their eligibility for the applicable leadership rating.
- (2) All information submitted is subject to verification and audit by the Commission prior to the award of a leadership rating.
- (3) Award of a Leadership Rating in one year does not entitle the applicant to a Leadership Rating for any other year.

(C) Leadership Rating Criteria

- (1) Social Justice Leader: in the year preceding the date of application for a leader rating:
 - (a) 1% of the marijuana establishment's gross revenue is donated to the technical assistance fund; and
 - (b) The licensee has conducted 50 hours of educational seminars targeted to residents of areas of disproportionate impact in one or more of the following: marijuana cultivation, marijuana product manufacturing, marijuana retailing, or marijuana business training.
- (2) Local Employment Leader: in the year preceding the date of application for a leader rating:
 - (a) 51% or more of the licensee's employees have been a Massachusetts resident for 12 months or more, as determined by the Commission; and
 - (b) 51% or more of the licensee's executives have been a Massachusetts resident for 12 months or more, as determined by the Commission.
- (3) Energy and Environmental Leader: in the year preceding the date of application for a leader rating:

- (a) The licensee has met or exceeded its energy and environmental impact goals for its registration period; and
- (b) The licensee has consistently complied with best management practices for energy use, waste disposal and environmental impact.

(4) Compliance Leader: in the year preceding the date of application for a leader rating:

- (a) All licensee employees have completed all required trainings for their positions within ninety days of hire;
- (b) The licensee has not been issued a written deficiency statement;
- (c) The licensee has not been the subject of a cease and desist order or a quarantine order;
- (d) The licensee has not had its license suspended; and
- (e) The licensee has met all timelines required by the Commission.

(D) Leadership Ratings will be taken into consideration by the Commission in assessing fines pursuant to 935 CMR 500.005 and disciplinary action pursuant to 935 CMR 500.450.

500.050: Marijuana Establishments

(A) General Requirements

- (1) A Marijuana Establishment is required to be registered to do business in the Commonwealth as a domestic business corporation or another domestic business entity in compliance with 935 CMR and to maintain the corporation in good standing with the Secretary of the Commonwealth and the Department of Revenue.
- (2) No licensee shall be granted more than 3 licenses in a particular class, except as otherwise specified in 935 CMR 500.000. An independent testing laboratory or standards laboratory may not have a license in any other class. No individual or entity shall be a controlling person over more than 3 licenses in a particular class of license.
- (3) License Classes are as follows:
 - (a) Marijuana Cultivator:
 - (i) Tier 1: up to 1,000 square feet of canopy;
 - (ii) Tier 2: 1,001 to 5,000 square feet of canopy;
 - (iii) Tier 3: 5,001 to 10,000 square feet of canopy;
 - (iv) Tier 4: 10,001 and over square feet of canopy.
 - (b) Craft Marijuana Cooperative
 - (c) Marijuana Product Manufacturer
 - (d) Marijuana Retailer
 - 1. Storefront
 - 2. Delivery-Only
 - 3. Marijuana Social Consumption Establishment

- 1. Primary Use
- 2. Mixed Use
- (e) Marijuana Research Facility
- (f) Independent Testing Laboratory
- (g) Marijuana Transporter
- (h) Marijuana Micro-Business

(4) A Marijuana Establishment shall operate all activities authorized by the license only at the address(es) registered with the Commission for that license.

(4) All Marijuana Establishment Agents of the Marijuana Establishment must be registered with the Commission pursuant to 935 CMR 500.030.

(B) Marijuana Cultivator

- (1) A marijuana cultivator may cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
- (2) A marijuana cultivator may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A marijuana cultivator may change tiers to either expand or reduce production. If a marijuana cultivator is applying to expand production, it must demonstrate that it has sold 85% of its product consistently over the six months preceding the application for expanded production.

(C) Craft Marijuana Cultivator Cooperative

- (1) A Craft Marijuana Cultivator Cooperative may be organized as a limited liability company or limited liability partnership under the laws of the commonwealth or such other business structure approved by the Commission.
- (2) The members or shareholders of a Craft Marijuana Cultivator Cooperative must be residents of the Commonwealth of Massachusetts for the 12 months immediately preceding the filing of an application for a license.
- (3) A Craft Marijuana Cultivator Cooperative license authorizes the Craft Marijuana Cultivator Cooperative to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments, but not to consumers, in compliance with these regulations.
- (4) A Craft Marijuana Cultivator Cooperative is limited to one license, under which it may have up to:
 - (a) 6 locations for activities authorized for marijuana cultivators; and
 - (b) 3 locations for activities authorized for marijuana product manufacturers.
- (5) Any activities not authorized under 935 CMR 500.015(C)(5) shall require separate licensure.

- (6) A Craft Marijuana Cultivator Cooperative may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A Craft Marijuana Cultivator Cooperative may change tiers to either expand or reduce production. If a Craft Marijuana Cultivator Cooperative is applying to expand production, it must demonstrate that it has sold 85% of its product consistently over the six months preceding the application for expanded production.

(D) Marijuana Product Manufacturer

- (1) A marijuana product manufacturer may 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.

(E) Marijuana Retailer

- (1) General Requirements.
- (a) A marijuana retailer may 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.
 - (b) A marijuana retailer shall operate all marijuana-related activities solely at the address identified in the license.
- (2) Storefront Marijuana Retailer
- (a) A marijuana retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program.
- (3) Delivery-Only Retailer
- (a) 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.
- (4) Marijuana Social Consumption Establishment
- (a) A marijuana social consumption establishment may purchase marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption on the premises.
 - (b) Primary Use. A primary use marijuana social consumption license shall be required for any commercial enterprise for which 51% or more of average monthly revenue is derived from the sale of marijuana products to be consumed on the premises.

(c) Mixed Use. A mixed use marijuana social consumption license shall be required for any commercial enterprise for which the consumption of marijuana is a secondary or shared purpose to a non-cannabis business purpose.

(i) 50% or less of average monthly gross revenue of a mixed use business shall be derived from the sale of marijuana products to be consumed on the premises;

(ii) Mixed use business licensees who sell marijuana shall only do so in a manner closely connected to or closely integrated with the primary or shared business product or service;

(iii) Mixed use business licensees shall only allow employees who are 21 years of age or older to have contact with marijuana products.

(iv) Mixed use business licensees shall only acquire marijuana products from a marijuana establishment and must comply with the tracking requirements of 935 CMR 500.105(H)(5).

(v) Mixed use business licensees must maintain a separate, locked storage area on its premises for marijuana products. Such separate, locked storage area shall be limited in access to only those employees who are 21 years of age or older and have completed a responsible vendor program training in compliance with 935 CMR 500.105(B).

(F) Marijuana Research Facility

(1) A marijuana research facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products.

(2) A marijuana research facility may be an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts.

(3) Any research involving humans must be authorized by an Institutional Review Board.

(4) A marijuana research facility may not sell marijuana cultivated under its research license, but may also hold a marijuana retailer license. Any marijuana or marijuana products sold by a marijuana research facility pursuant to a marijuana retailer license must comply with all applicable requirements for the sale and handling of marijuana and marijuana products, including, but not limited to, tracking, sanitary, testing and waste disposal requirements.

(5) All research regarding marijuana must be conducted by individuals 21 years of age or older.

(G) Independent Testing Laboratory

(1) An Independent Testing Laboratory shall be:

(a) Accredited to *International Organization for Standardization (ISO) 17025* by a third party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement; or

(b) Certified, registered, or accredited by an organization approved by the Commission.

- (2) An executive or member of a Marijuana Establishment is prohibited from having any financial or other interest in an independent testing laboratory providing testing services for any Marijuana Establishment;
- (3) No individual employee of a laboratory providing testing services for Marijuana Establishments may receive direct financial compensation from any Marijuana Establishment;
- (4) Standards Laboratory: a laboratory meeting the requirements of the independent testing laboratory may be licensed as a standards laboratory to ensure consistent and compliant testing by the independent testing laboratories. An independent testing laboratory may not serve as a standards laboratory.
 - (a) Upon request by the Commission, a standards laboratory shall test samples of marijuana or marijuana products in a time and manner to be determined by the Commission.
 - (b) The testing shall be performed in a manner determined by the Commission so as not to reveal to the laboratory the source of the marijuana or marijuana products.
 - (c) The standards laboratory shall submit the results of testing to the Commission for review.
 - (d) The standards laboratory shall retain the marijuana or marijuana products tested pursuant to paragraph (1) until directed to transfer or dispose of them by the Commission. Any disposal shall take place in compliance with 935 CMR 500.105(L).

(H) Marijuana Transporter

- (1) An entity may only transport marijuana or marijuana products when such transportation is not already authorized under a marijuana establishment license if it is licensed as a Marijuana Transporter:
 - (a) Third Party Transporter: It is an entity registered to do business in Massachusetts that does not hold another marijuana establishment license pursuant to 935 CMR 500.050 and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.
 - (b) Existing Licensee Transporter: It is Marijuana Establishment that wishes to contract with other marijuana establishments to transport their marijuana and marijuana products to other marijuana establishments.
- (2) All Marijuana Transporter, their agents and employees, who contract with a marijuana establishment to transport marijuana or marijuana products must comply with the Act and 935 CMR 500.000.

- (3) All Marijuana Transporter agents who transport, deliver or otherwise handle marijuana or marijuana products shall register as Marijuana Establishment Agents prior to transporting, delivering or otherwise handling marijuana or marijuana products.

(I) Marijuana Micro-Business

- (a) A microbusiness is a co-located Tier 1 or Tier 2 marijuana cultivator, marijuana product manufacturer, and marijuana delivery service.
- (b) A marijuana micro-business shall comply with all operational requirements imposed by 935 CMR 500.105-140 on marijuana cultivators, manufacturers, and delivery-only retailers, to the extent the licensee engages in such activities.
- (c) A microbusiness licensee shall not have an ownership stake in any other marijuana establishment and a majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application is eligible to apply for a micro-business license.
- (d) Application fees and license fees for marijuana micro-businesses shall be set at 50% of the combined sum of the application fees and license fees for each of the following activities in which the licensee engages: cultivation, manufacturing, delivery.

500.100: Application for Licensing of Marijuana Establishments

500.101: Application Requirements

(A) New Applicants: An Applicant in any category of Marijuana Establishment shall file, in a form and manner specified by the Commission, an application for licensure as a Marijuana Establishment. The application shall consist of three packets: (i) an Application of Intent packet; (ii) a Background Check packet; and (iii) a Management and Operations Profile packet. An applicant may file individual packets separately or as a whole. An application will be not be considered complete by the Commission until each individual packet is determined by the Commission to be complete and the applicant has been notified that each packet is complete.

- (1) Application of Intent. An applicant for licensure as a Marijuana Establishment shall submit the following as part of the Application of Intent:

- (a) Documentation that the Marijuana Establishment is it an entity registered to do business in Massachusetts and a list of all executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings;

- (b) Documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. Information submitted shall be subject to review and

verification by the Commission as a component of the application process. Required documentation shall include but not limited to:

- i. The proper name of any individual or registered business name of any entity;
- ii. The street address, provided, however that the address shall not be a post office box;
- iii. The primary telephone number;
- iv. Electronic mail;
- v. The amount and source of capital provided or promised;
- vi. A bank record dated within 30 days of the application verifying the existence of capital; and
- vii. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained.

(c) Documentation of a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling and winding down of the Marijuana Establishment;

(d) Identification of the proposed address for the license;

(e) Documentation of a property interest in the proposed address. Interest may be demonstrated by one of the following:

- i. Clear legal title to the proposed site;
- ii. An option to purchase the proposed site;
- iii. A lease;
- iv. A legally enforceable agreement to give such title; or
- v. Binding permission to use the premises.

(f) Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the Marijuana Establishment is located have executed a host community agreement;

(g) Documentation that the applicant has conducted a community outreach hearing consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application. Documentation must include:

- i. Copy of a notice of the time, place and subject matter of the hearing, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 7 calendar days prior to the hearing;
- ii. Copy of the hearing notice filed with the town or city clerk, the planning board, the contracting authority for the municipality, and local licensing authority for adult use of marijuana, if applicable;

- iii. Attestation that notice of the time, place and subject matter of the hearing, including the proposed address of the Marijuana Establishment, was mailed at least 7 calendar days prior to the community outreach hearing to abutters of the proposed address of the Marijuana Establishment, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town;
- iv. Information presented at the community outreach hearing, which must include, but not be limited to:
 - A. The type(s) of Marijuana Establishment to be located at the proposed address;
 - B. Information adequate to demonstrate that the location will be maintained securely;
 - C. Steps to be taken by the Marijuana Establishment to prevent diversion to minors;
 - D. A plan by the Marijuana Establishment to positively impact the community;
 - E. Information adequate to demonstrate that the location will not constitute a nuisance to the community by noise, odor, dust, glare, fumes, vibration, heat, glare, or other conditions likely to cause nuisance; and
 - F. An attestation that community members were permitted to ask questions and receive answers from representatives of the Marijuana Establishment.
- (h) Documentation that the Marijuana Establishment is in compliance with local zoning ordinances or bylaws, which shall include but may not be limited to a certification from the municipality in which the Marijuana Establishment will be located.
- i. The Commission shall, as part of its review of the application, request that the municipality respond within 60 days of the date of correspondence from the Commission seeking confirmation that the applicant's proposed Marijuana Establishment complies with local bylaws or ordinance and is not within 500 feet of a pre-existing public or private school providing education in kindergarten or grades 1 through 12, unless the municipality has adopted an ordinance or bylaw that reduces that distance.

- ii. The Commission shall consider certification submitted by the applicant to be sufficient evidence of compliance with municipal bylaws or ordinances unless it receives a response in writing from the municipality within 60 days stating that the applicant is not in compliance with local law.
 - (i) A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment, which shall include but not be limited to the identification of any local licensing requirements for adult use of marijuana;
 - (j) A plan by the Marijuana Establishment to positively impact areas of disproportionate impact, as defined by the Commission;
 - (k) The requisite non-refundable application fee pursuant to 935 CMR 500.005; and
 - (l) Any other information required by the Commission.
- (2) Background Check: Prior to an application being considered complete, each applicant for licensure must submit the following information:
- (a) The list of individuals and entities in 935 CMR 500.101 (A)(1)(a);
 - (b) Information for each individual identified in paragraph (a) which shall include:
 - i. The individual's full legal name and any aliases;
 - ii. The individual's address;
 - iii. The individual's date of birth;
 - iv. A photocopy of the individual's driver's license or other government-issued identification card;
 - v. A CORI Acknowledgement Form, pursuant to 803 CMR 2.09, provided by the Commission, signed by the individual and notarized;
 - vi. Authorization to obtain a full set of fingerprints, in accordance with section 21 of chapter 94G of the General Laws, submitted in a form and manner as determined by the Commission;
 - vii. A description and dates of any correction orders issued under the laws or regulations of the Commonwealth, or other states, to the individual or an entity in which the individual served as an executive and was responsible for the matter the correction order addressed, including the response to the correction order and any resolution;
 - viii. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or another state, the United States, or a military, territorial, or Indian tribal authority, whether for a felony or misdemeanor, including but not limited to action against any health care facility or facility for providing marijuana for medical or recreational purposes in which those individuals either owned shares of stock or served as executives, and which resulted in conviction, or guilty plea, or plea of nolo contendere, or admission of sufficient facts;
 - ix. A description and the relevant dates of any civil or administrative action under the laws of the Commonwealth, another state, the United States, or a military,

territorial, or Indian tribal authority relating to any profession or occupation or fraudulent practices;

- x. A description and relevant dates of any past or pending legal or enforcement actions in any other state against any officer, executive, director, or board member of the applicant or its members, or against any other entity owned or controlled in whole or in part by them, related to the cultivation, processing, distribution, or sale of marijuana for medical purposes;
- xi. A description and relevant dates of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a license or registration, for any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction, including denial, suspension, revocation, or refusal to renew certification for Medicaid or Medicare or failure to follow non-profit procedures or rules;
- xii. A description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by another state, the United States or a military, territorial, or Indian tribal authority with regard to any professional license or registration held by any executive or member that is part of the applicant's application, if any;
- xiii. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any executive or member that is part of the applicant's application, if any;
- xiv. A description and relevant dates of any attempt to obtain a registration, license, or approval to operate in any state by fraud, misrepresentation, or the submission of false information; and
- xv. Any other information required by the Commission.

(3) Management and Operations Profile: Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:

- (a) Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws;
- (b) A certificate of good standing from the Corporations Division of the Secretary of State;
- (c) A certificate of good standing from the Massachusetts Department of Revenue for;
- (d) A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;

- (e) A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(I);
- (f) A detailed summary of the business plan for the Marijuana Establishment;
- (g) A detailed summary of operating policies and procedures for the Marijuana Establishment, which shall include, but not be limited to, provisions for:
 - (i) security;
 - (ii) prevention of diversion;
 - (iii) storage of marijuana;
 - (iv) transportation of marijuana, if applicable to license type;
 - (v) inventory procedures;
 - (vi) procedures for quality control and testing of product for potential contaminants, if applicable to license type;
 - (vii) personnel policies;
 - (viii) dispensing procedures;
 - (ix) record-keeping procedures;
 - (x) maintenance of financial records; and
 - (xi) diversity plans to promote equity among minorities, women, veterans, people with disabilities and people of all gender identities in the operation of the Marijuana Establishment.
- (h) A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees; and
- (i) Any other information required by the Commission.

(4) Additional Specific Requirements.

- (a) In addition to the requirements set forth in 935 CMR 500.101(A)(3), applicants for a license to operate a Marijuana Establishment for retail shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining marijuana or marijuana products from a licensed Marijuana Establishment(s);
- (b) In addition to the requirements set forth in 935 CMR 500.101(A)(3), applicants for a license to operate Marijuana Establishment for cultivation shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of marijuana, including a detailed summary of the policies and procedures for cultivation.
- (c) In addition to the requirements set forth in 935 CMR 500.101(A)(3), applicants for a license to operate a Marijuana Establishment for product manufacturing shall also provide as part of the Management and Operation Profile packet:
 - (i) a description of the types and forms of marijuana products that the Marijuana Establishment intends to produce;

- the methods of production; and
- (ii) a sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device.

- (d) In addition to the requirements set forth in 935 CMR 500.101(A)(3), applicants for a license to operate a Marijuana Establishment for social consumption as a Primary Use licensee shall also provide as part of the Management and Operation Profile packet a detailed description of the applicant's plan to assist with patron transportation.
- (e) In addition to the requirements set forth in 935 CMR 500.101 (A)(3), applicants for a license to operate a Marijuana Establishment as a micro business shall also provide as part of the Application of Intent evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application.
- (f) In addition to the requirements set forth in 935 CMR 500.101(A)(3), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall also provide as part of the Application of Intent:
 - i. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application; and
 - ii. Evidence of the Craft Marijuana Cooperative's organization as a limited liability company or limited liability partnership under the laws of the Commonwealth.

(5) Eligibility as an Economic Empowerment Priority Applicant

- (a) An applicant who intends to file an application for licensure as an Economic Empowerment Priority Applicant shall file, in a form and manner specified by the Commission, a request for certification as an Economic Empowerment Priority Applicant. The request for certification shall be in addition to the requirements included in 935 CMR 500.101(A)(1)-(4).
- (b) The request for certification as an Economic Empowerment Priority Applicant shall be evaluated by the Commission pursuant to 935 CMR 500.102(A)(2) where an applicant meets two or more of the following criteria:
 - i. A majority of ownership belongs to people who have lived for 5 of the preceding 10 years in an area of disproportionate impact, as determined by the Commission;
 - ii. A majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;

- iii. At least 51% of current employees or subcontractors reside in areas of disproportionate impact and by the first day of business, the ratio will meet or exceed 75%;
- iv. At least 51% of employees or subcontractors have drug-related CORI and are otherwise legally employable in cannabis enterprises;
- v. Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in areas of disproportionate impact.

B. Existing RMD License Priority Applicants

(1) The application for an Existing RMD License Priority Applicant intending to operate an Adult Use Marijuana Establishment shall consist of three packets: (i) an Application of Intent packet; (ii) a Background Check packet; and (iii) a Management and Operations Profile packet. Applicants for licensure under this provision shall be required to provide the information required as part of (i)-(iii) of this provision to the extent that the required information does not qualify as specific information previously required, analyzed, approved and recognized by the department of public health. An applicant may file individual packets separately or as a whole. An application will not be considered complete by the Commission until each individual packet is determined by the Commission to be complete and the applicant has been notified. Applicants shall be determined to have achieved accreditation status if according to the records of the certifying agency the applicant:

- (a) Is a registered marijuana dispensary that has received a Final Certificate of Registration and is selling marijuana or marijuana-infused products as of the date of application;
- (b) Is a registered marijuana dispensary that has received a Final Certificate of Registration but is not selling marijuana or marijuana-infused products as of the date of application; or
- (c) Is a registered marijuana dispensary that has received a Provisional Certificate of Registration but not a Final Certificate of Registration.

(2) Application of Intent Packet. An Existing RMD applicant for licensure as an Adult Use Marijuana Establishment shall submit the following as part of the Application of Intent:

- (a) A list of all executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the adult use Marijuana Establishment not currently included on the RMD license; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings;
- (b) Identification of the proposed address for the license;
- (c) Documentation of a property interest in the proposed address, if different than the location identified in the Existing RMD license. Interest may be demonstrated by one of the following:

- i. Clear legal title to the proposed site;
 - ii. An option to purchase the proposed site;
 - iii. A lease
 - iv. A legally enforceable agreement to give such title;
 - v. Binding permission to use the premises.
- (d) Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the Adult Use Marijuana Establishment is located have executed a host community agreement specific to the Adult Use Marijuana Establishment;
- (e) Documentation that the applicant has conducted a community outreach hearing consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application. Documentation must include:
 - i. Copy of a notice of the time, place and subject matter of the hearing, including the proposed address of the Adult Use Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 7 calendar days prior to the hearing.
 - ii. Copy of the hearing notice filed with the town or city clerk, the planning board, the contracting authority for the municipality, and local licensing authority for adult use of marijuana, if applicable;
 - iii. Attestation that notice of the time, place and subject matter of the hearing, including the proposed address of the Marijuana Establishment, was mailed at least 7 calendar days prior to the community outreach hearing to abutters of the proposed address of the Marijuana Establishment, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town.
 - iv. Information presented at the community outreach hearing, which must include, but not be limited to:
 - A. The type(s) of Adult Use Marijuana Establishment to be located at the proposed address;
 - B. If physically separate from the RMD location, information adequate to demonstrate that the Adult Use Marijuana Establishment location will be maintained securely;
 - C. Steps to be taken by the Adult Use Marijuana Establishment to prevent diversion to minors;

- D. Information adequate to demonstrate that the location will not constitute a nuisance to the community by noise, odor, dust, glare, fumes, vibration, heat, glare, or other conditions likely to cause nuisance; and
 - E. Attestation that community members were permitted to ask questions and receive answers from representatives of the Adult Use Marijuana Establishment.
- (f) The requisite non-refundable application fee;
 - (g) Documentation that the Marijuana Establishment is in compliance with local zoning ordinances or bylaws, which shall include but may not be limited to a certification from the municipality in which the Marijuana Establishment will be located.
 - i. The Commission shall, as part of its review of the application, request that the municipality respond within 60 days of the date of correspondence from the Commission seeking confirmation that the applicant's proposed Marijuana Establishment complies with local bylaws or ordinance and is not within 500 feet of a pre-existing public or private school providing education in kindergarten or grades 1 through 12, unless the municipality has adopted an ordinance or bylaw that reduces that distance.
 - ii. The Commission shall consider certification submitted by the applicant to be sufficient evidence of compliance with municipal bylaws or ordinances unless it receives a response in writing from the municipality within 60 days stating that the applicant is not in compliance with local law.
 - (h) If physically separate from the RMD location, a description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment, which shall include but not be limited to the identification of any local licensing requirements for adult use of marijuana;
 - (i) A plan by the Marijuana Establishment to positively impact areas of disproportionate impact, as defined by the Commission; and
 - (j) Any other information required by the Commission.
- (3) **Background Check Packet:** Prior to an application being considered complete, each Existing RMD applicant for licensure to operate an Adult Use Marijuana Establishment shall submit the following information:
- (a) The list of individuals in 935 CMR 500.101(B)(2)(a);
 - (b) Information for each individual identified in paragraph (a) which shall include:
 - (i) The individual's full legal name and any aliases;
 - (ii) The individual's address;
 - (iii) The individual's date of birth;
 - (iv) An indication of whether the individual is or has been associated with the Existing RMD and in what capacity.

- (v) A photocopy of the individual's driver's license or other government-issued identification card;
 - (vi) A CORI Acknowledgement Form, pursuant to 803 CMR 2.09, provided by the Commission, signed by the individual and notarized; and
 - (vii) Authorization to obtain a full set of fingerprints, in accordance with section 21 of chapter 94G of the General Laws, submitted in a form and manner as determined by the Commission.
- (4) Existing RMD licensees shall also submit the following information for individuals listed in 935 CMR 500.101(B)(2)(a) who were not previously associated with the Existing RMD license:
- (a) A description and dates of any correction orders issued under the laws or regulations of the Commonwealth, or other states, to the individual or an entity in which the individual served as an executive and was responsible for the matter the correction order addressed, including the response to the correction order and any resolution;
 - (b) A description and the relevant dates of any criminal action under the laws of the Commonwealth, or another state, the United States, or a military, territorial, or Indian tribal authority, whether for a felony or misdemeanor, including but not limited to action against any health care facility or facility for providing marijuana for medical or recreational purposes in which those individuals either owned shares of stock or served as executives, and which resulted in conviction, or guilty plea, or plea of nolo contendere, or admission of sufficient facts;
 - (c) A description and the relevant dates of any civil or administrative action under the laws of the Commonwealth, another state, the United States, or a military, territorial, or Indian tribal authority relating to any profession or occupation or fraudulent practices;
 - (d) A description and relevant dates of any past or pending legal or enforcement actions in any other state against any officer, executive, director, or board member of the applicant or its members, or against any other entity owned or controlled in whole or in part by them, related to the cultivation, processing, distribution, or sale of marijuana for medical purposes;
 - (e) A description and relevant dates of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a license or registration, for any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction, including denial, suspension, revocation, or refusal to renew certification for Medicaid or Medicare or failure to follow non-profit procedures or rules;
 - (f) A description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by another state, the United States or a military, territorial, or Indian tribal authority with regard to any professional license or registration held by any executive or member that is part of the applicant's application, if any;

- (g) A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any executive or member that is part of the applicant's application, if any;
 - (h) A description and relevant dates of any attempt to obtain a registration, license, or approval to operate in any state by fraud, misrepresentation, or the submission of false information; and
 - (i) Any other information required by the Commission.
- (5) Management and Operations Profile Packet: To be considered for licensure as an Adult Use Marijuana Establishment, each Existing RMD licensee applicant shall submit the following information:
- (a) Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws;
 - (b) A certificate of good standing from the Corporations Division of the Secretary of State;
 - (c) A certificate of good standing from the Massachusetts Department of Revenue;
 - (d) The applicant's plan for separating medical and recreational operations, including:
 - i. Where operations are co-located, the applicant's plan shall include a component detailing the manner in which the applicant will ensure that operations remain separate at the point of sale; and
 - ii. Where operations are co-located, the applicant's plan shall include a component detailing the manner in which Medical and Adult Use operations will be kept separate, including a plan to ensure that access to the Adult Use operation is restricted to those individuals age 21 and older;
 - (e) A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;
 - (f) A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(Q);
 - (g) A detailed summary of the business plan for the Adult Use Marijuana Establishment;
 - (h) A detailed summary describing or, where co-located with the existing RMD, updating or modifying operating policies and procedures for an Adult Use Marijuana Establishment which shall include, but not be limited to, provisions for:
 - (i) Security;
 - (ii) Prevention of diversion;
 - (iii) Storage of marijuana;

- (iv) Transportation of marijuana,
- (v) Inventory procedures,
- (vi) Procedures for quality control and testing of product for potential contaminants,
- (vii) Dispensing procedures;
- (viii) Personnel policies, including background check policies
- (ix) Record-keeping procedures;
- (x) Procedures for the maintenance of financial records; and
- (xi) Diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities in the operation of the Marijuana Establishment.

- (i) A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees;
- (j) Any other information required by the Commission.

(6) Additional License Requirements.

- (a) In addition to the requirements set forth in 935 CMR 500.101(B)(4), applicants for a license to operate a Marijuana Establishment for retail shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining marijuana or marijuana products from a licensed Marijuana Cultivator;
- (b) In addition to the requirements set forth in 935 CMR 500.101(B)(4), applicants for a license to operate Marijuana Establishment for cultivation shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of marijuana, including a detailed summary of the policies and procedures for cultivation.
- (c) In addition to the requirements set forth in 935 CMR 500.101(B)(4), applicants for a license to operate Marijuana Establishment for product manufacturing shall also provide as part of the Management and Operation Profile packet:
 - (i) A description of the types and forms of marijuana products that the Marijuana Establishment intends to produce;
 - (ii) The methods of production; and
 - (iii) A sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device.
- (d) In addition to the requirements set forth in 935 CMR 500.101(B)(4), applicants for a license to operate a Marijuana Establishment for social consumption as a Primary Use licensee shall also provide as part of the Management and Operation Profile packet a detailed description of the applicant's plan to assist with patron transportation.

- (e) In addition to the requirements set forth in 935 CMR 500.101 (B)(4), applicants for a license to operate a Marijuana Establishment as a micro business shall also provide as part of the Application of Intent evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application.
- (f) In addition to the requirements set forth in 935 CMR 500.101(B)(4), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall also provide as part of the Application of Intent:
 - i. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application; and
 - ii. Evidence of the Craft Marijuana Cooperative's organization as a limited liability company or limited liability partnership under the laws of the Commonwealth.

500.102: Action on Applications

(A) Action on Each Packet. The 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.

1. Packets comprising the license application shall be evaluated based on the Applicant's (i) demonstrated compliance with the laws and regulations of the Commonwealth; (ii) suitability for licensure based on the provisions of 935 CMR 500.101(A) or (B) and the factors set forth in 935 CMR 500.901; and (iii) evaluation of the thoroughness of the applicants' responses to the required criteria. The Commission shall consider each packet submitted by an Applicant on a rolling basis.
2. The Commission shall notify each applicant in writing that: (a) that the applicant qualifies as an Economic Empowerment priority applicant pursuant to the criteria set forth in 935 CMR 500.101(A)(5), where applicable, and may be eligible for assistance through the Social Equity program established in 935 CMR 500.105(Q); (b) that the applicant has completed a packet; or (c) that the Commission requires further information within a specified period of time before the packet is determined to be complete.
3. Failure of the applicant to adequately address all required items in its application in the time required by the Commission will result in evaluation of the application as submitted. The applicant will not be permitted to provide supplemental materials unless specifically requested by the Commission. Nothing in 935 CMR 500.100 is intended to confer a property or other right or interest entitling an applicant to a hearing before an application may be denied.
4. Upon determination that the application is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the

municipality in which the Marijuana Establishment will be located. Pursuant to 935 CMR 500.101(A)(1)(i) and (g), the Commission shall request that the municipality respond within sixty (60) days of the date of the correspondence that the applicant's proposed Marijuana Establishment is in compliance with municipal bylaws or ordinances.

(B) Action on Completed Applications.

1. Priority application review will be granted to a) applicants who are certified as eligible for the Economic Empowerment program, as defined in 935 CMR 500.101(A)(5); and b) existing RMD applicants as defined in 935 CMR 500.101(B)(1).
2. The Commission shall review applications from priority applicants on an alternating basis, beginning with the first-in-time-application received from either an Existing RMD applicant or Economic Empowerment applicant as recorded by the Commission's electronic license application tracking system. Where no completed application is available for review by the Commission from either of the priority groups defined in 935 CMR 500.102(B)(1), the Commission shall review the next complete application from either group.
3. The Commission shall grant or deny a provisional license not later than 90 days following notification to the Applicant that all required packets are considered complete. Applicants shall be notified in writing that (a) the Applicant shall receive a Provisional License which may be subject to further conditions as determined by the Commission; or (b) the Applicant has been denied a license. Denial shall include a statement of the reasons for the denial.
4. Failure of the applicant to complete the application process within the time specified by the Commission in the application instructions shall be grounds for denial of a license.

500.103: Licensure and Renewal

(A) Provisional License

(1) Upon selection by the Commission, an applicant shall submit the required license fee and subsequently be issued a provisional license to develop Marijuana Establishments, in the name of the entity. Such provisional licenses shall be subject to reasonable conditions specified by the Commission, if any.

(a) Inspections:

- i. The Commission shall review architectural plans for the building or renovation of Marijuana Establishments. Construction or renovation related to such plans shall not begin until the Commission has granted approval. Submission of such plans shall be accompanied by a requisite fee and shall occur in a manner and form established by the Commission

including, but not limited to, a detailed floor plan of the premises of the proposed Marijuana Establishments that identifies the square footage available and describes the functional areas of the Marijuana Establishments, including areas for any preparation of marijuana products, and, if applicable, such information for the single allowable off-premises location in Massachusetts where marijuana will be cultivated or marijuana products will be prepared; and a description of plans to ensure that the Marijuana Establishments will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines;

- ii. Marijuana Establishments shall construct its dispensary, processing and cultivation facilities in accordance with 935 CMR 500.000, conditions set forth by the Commission in its provisional license and architectural review, and any applicable state and local laws, regulations, permits or licenses;
- iii. The Commission may conduct inspections of the dispensary, processing and cultivation facilities, as well as review all written materials required in accordance with 935 CMR 500.000.

(B) Final License: Upon completion of all inspections required by the Commission, Marijuana Establishments is eligible for a final license. All information described in 935 CMR 500.000 that is not available at the time of submission, must be provided to and approved by the Commission, before Marijuana Establishments may receive a final license. Such final licenses shall be subject to reasonable conditions specified by the Commission, if any.

- (1) No person shall operate a Marijuana Establishments without a final license issued by the Commission.
- (2) A provisional or final license may not be assigned or transferred without prior Commission approval.
- (3) A provisional or final license shall be immediately null and void if the Marijuana Establishments ceases to operate, or if, without the permission of the Commission, it relocates.
- (4) Acceptance of a provisional or final license constitutes an agreement by the Marijuana Establishments that it will adhere to the practices, policies, and procedures that are described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Commission as part of registration.
- (5) The Marijuana Establishments shall post the final license in a conspicuous location on the premises at each Commission-approved location.
- (6) The Marijuana Establishments shall conduct all activities authorized by 935 CMR 500.000 at the address(es) identified on the final license issued by the Commission.

(C) The Marijuana Establishments must be operational within the time indicated in 935 CMR 500.100(A)(3)(d) or 935 CMR 500.100(B)(4)(e) or as otherwise amended through the application process, and approved by the Commission through the issuance of a final license.

- (D) Expiration and Renewal of Registration. The Marijuana Establishments' license, as applicable, shall expire one year after the date of issuance of the provisional license and annually thereafter, and may be renewed as follows unless an action has been taken based upon the grounds set forth in 935 CMR 500.405:

(1) No later than 60 calendar days prior to the expiration date, Marijuana Establishments shall submit a completed renewal application to the Commission in a form and manner determined by the Commission, as well as the required fee. Licensees shall submit as a component of the renewal application a report or other information demonstrating the licensee's efforts to comply with the plans required under 935 CMR 500.101(A)(1)(k) and (A)(3)(g)(xi) or 935 CMR 500.101(B)(2)(i) and (B)(4)(h)(xi), as applicable.

(2) The Marijuana Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.

(3) The Commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a Marijuana Establishment to licensees in good standing and who have filed any tax returns required pursuant to M.G.L. c. 64N.

500.104: Notification of Change

- (A) Prior to changing location(s), the Marijuana Establishments shall submit a request for such change to the Commission and shall pay the appropriate fee. No such change shall be permitted until approved by the Commission.
- (B) Prior to any change in ownership, where an owner acquires or increases to 10% or more of the equity, the Marijuana Establishment shall submit a request for such change to the Commission and shall pay the appropriate fee, if any. No such change shall be permitted until approved by the Commission.
- (C) Prior to any modification, remodeling, expansion, reduction, or other physical, non-cosmetic alteration of the Marijuana Establishments, the Marijuana Establishments shall submit an application for such change to the Commission and shall pay the appropriate fee. No such change shall be permitted until approved by the Commission.
- (D) Prior to changing its name, the Marijuana Establishments shall notify the Commission and shall pay the appropriate fee. No such change shall be permitted until approved by the Commission.
- (E) The Marijuana Establishments shall keep current all information required by 935 CMR 500.000, or otherwise required by the Commission. The Marijuana Establishments shall report any changes in or additions to the content of the information contained in any document to the Commission within five business days after such change or addition.

500.105: General Operational Requirements for Marijuana Establishments

- (A) Written Operating Procedures. Every Marijuana Establishment shall have and follow a set of detailed written operating procedures. If the Marijuana Establishment has a second location, it shall develop and follow a set of such operating procedures for that facility. Operating procedures shall include but need not be limited to the following:
- (1) Security measures in compliance with 935 CMR 500.110;
 - (2) Employee security policies, including personal safety and crime prevention techniques;
 - (3) A description of the Marijuana Establishment's hours of operation and after-hours contact information, which shall be provided to the Commission, made available to law enforcement officials upon request, and updated pursuant to 935 CMR 500.000.
 - (4) Storage of marijuana in compliance with 935 CMR 500.105(K);
 - (5) Description of the various strains of marijuana to be cultivated, processed or sold, as applicable, and the form(s) in which marijuana will be sold;
 - (6) Procedures to ensure accurate recordkeeping, including inventory protocols;
 - (7) Plans for quality control, including product testing for contaminants in compliance with 935 CMR 500.000;
 - (8) A staffing plan and staffing records in compliance with 935 CMR 500.105(I);
 - (9) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;
 - (10) Alcohol, smoke, and drug-free workplace policies;
 - (11) A plan describing how confidential information will be maintained;
 - (12) A policy for the immediate dismissal of any Marijuana Establishment Agent who has:
 - (a) Diverted marijuana, which shall be reported to law enforcement officials and to the Commission;
 - (b) Engaged in unsafe practices with regard to operation of the Marijuana Establishment, which shall be reported to the Commission; or
 - (c) Been convicted or entered a guilty plea, plea of nolo contendere, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority.
 - (13) A list of all board members and executives of a Marijuana Establishment, and members, if any, of the applicant, must be made available upon request by any individual. This

requirement may be fulfilled by placing this information on the Marijuana Establishment's website.

(14) Policy and procedure for the handling of cash on Marijuana Establishment premises including but not limited to storage, collection frequency, and transport to financial institution(s).

(15) Policy and procedures to prevent the diversion of marijuana to individuals under 21 years of age.

(B) Marijuana Establishment Agent Training. Marijuana Establishments shall ensure that all Marijuana Establishment Agents complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each Marijuana Establishment Agent, and at a minimum must include a responsible vendor program under 935 CMR 500.105(B). At a minimum, staff shall receive 8 hours of on-going training annually.

(C) Requirements for the Handling of Marijuana

(1) A Marijuana Establishment authorized to process marijuana shall do so in a safe and sanitary manner. A Marijuana Establishment shall process the leaves and flowers of the female marijuana plant only, which shall be:

- (a) Well cured and free of seeds and stems;
- (b) Free of dirt, sand, debris, and other foreign matter;
- (c) Free of contamination by mold, rot, other fungus, and bacterial diseases;
- (d) Prepared and handled on food-grade stainless steel tables; and
- (e) Packaged in a secure area.

(2) All Marijuana Establishments, including those that develop or process non-edible Marijuana products, shall comply with the following sanitary requirements:

- (a) Any Marijuana Establishment Agent whose job includes contact with marijuana or non edible Marijuana products, including cultivation, production, or packaging, is subject to the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*;
- (b) Any Marijuana Establishment Agent working in direct contact with preparation of marijuana or non-edible Marijuana products shall conform to sanitary practices while on duty, including:
 - (i) Maintaining adequate personal cleanliness; and
 - (ii) Washing hands thoroughly in an adequate hand-washing area before starting work, and at any other time when hands may have become soiled or contaminated.
- (c) Hand-washing facilities shall be adequate and convenient and shall be furnished with running water at a suitable temperature. Hand-washing facilities shall be

located in the Marijuana Establishment in production areas and where good sanitary practices require employees to wash and/or sanitize their hands, and shall provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

- (d) There shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;
- (e) Litter and waste shall be properly removed, disposed of so as to minimize the development of odor, and minimize the potential for the waste attracting and harboring pests. The operating systems for waste disposal shall be maintained in an adequate manner pursuant to 935 CMR 500.105(L);
- (f) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;
- (g) There shall be adequate safety lighting in all processing and storage areas, as well as areas where equipment or utensils are cleaned;
- (h) Buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;
- (i) All contact surfaces, including utensils and equipment, shall be maintained in a clean and sanitary condition. Such surfaces shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the U.S. Environmental Protection Agency (EPA), in accordance with labeled instructions. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable;
- (j) All toxic items shall be identified, held, and stored in a manner that protects against contamination of marijuana and Marijuana products;
- (k) A Marijuana Establishment's water supply shall be sufficient for necessary operations. Any private water source shall be capable of providing a safe, potable, and adequate supply of water to meet the Marijuana Establishment's needs;
- (l) Plumbing shall be of adequate size and design, and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the Marijuana Establishment. Plumbing shall properly convey sewage and liquid disposable waste from the Marijuana Establishment. There shall be no cross-connections between the potable and waste water lines;
- (m) A Marijuana Establishment shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair;

(n) Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

(o) Storage and transportation of finished products shall be under conditions that will protect them against physical, chemical, and microbial contamination as well as against deterioration of them or their container.

(D) Marketing and Advertising Requirements

(1) Permitted Practices

(a) A Marijuana Establishment may develop a logo to be used in labeling, signage, and other materials; provided, however, that use of medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo.

(b) Sponsorship of a charitable, sporting or similar event, except that advertising, marketing, and branding at, or in connection with, such an event, is prohibited unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data;

(c) A Marijuana Establishment may display, in secure, locked cases, samples of each product offered for sale and subject to the requirements of 935 CMR 500.110. These display cases may be transparent; and an authorized marijuana establishment agent may remove a sample of marijuana from the case and provide it to the consumer for inspection, provided the consumer may not consume or otherwise use the sample unless otherwise authorized herein.

(d) A Marijuana Establishment may engage in reasonable marketing, advertising and branding practices that are not otherwise prohibited in 935 CMR 500.105(D)(2) that do not jeopardize the public health, welfare or safety of the general public or promote the diversion of marijuana or marijuana use in individuals under 21 years of age. Any such marketing, advertising and branding created for viewing by the public shall include the statement "Please Consume Responsibly," in a conspicuous manner on the face of the advertisement and shall include a minimum of two (2) of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:

- i. "This product may cause impairment and may be habit forming."
- ii. Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug."
- iii. "There may be health risks associated with consumption of this product."
- iv. "For use only by adults 21 years of age and older. Keep out of the reach of children."
- v. "Marijuana should not be used by women who are pregnant or breastfeeding."

(e) All marketing, advertising and branding produced by or on behalf of a Marijuana Establishment shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, §4(a ½)(xxix): "This product has not been analyzed or

approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.” There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The intoxicating effects of edible products may be delayed by 2 hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222. This product may be illegal outside of MA.”

- (2) Prohibited Practices. The following advertising, marketing, and branding activities are prohibited:
- (a) advertising, marketing, and branding in such a manner that is deemed to be deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression, whether directly, or by ambiguity or omission;
 - (b) advertising, marketing and branding by means of television, radio, internet or other electronic communication, billboard or other outdoor advertising, or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data;
 - (c) advertising, marketing, and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age;
 - (d) advertising, marketing, and branding including, but not limited to, mascots, cartoons, brand sponsorships and celebrity endorsements, that is deemed to appeal to a person less than 21 year of age;
 - (e) advertising, marketing, and branding, including statements by a licensee, that makes any false or misleading statements concerning other licensees and the conduct and products of such other licensees;
 - (f) advertising, marketing, and branding through certain identified promotional items as determined by the Commission, including, but not limited to, giveaways, coupons, or “free” or “donated” marijuana;
 - (g) advertising, marketing, and branding by a licensee that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a½)(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission;
 - (h) installation of any neon signage or any illuminated external signage which fails to comply with all local ordinances and requirements;
 - (i) installation of any external signage that is illuminated beyond the period of 30 minutes before sundown until closing;
 - (j) the use of vehicles equipped with radio or loud speakers for the advertising of marijuana;
 - (k) the use of radio or loud speaker equipment in any Marijuana Establishment for the purpose of attracting attention to the sale of marijuana;
 - (l) advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85 per cent of the audience is reasonably expected to

- be 21 years of age or older, as determined by reliable, up-to-date audience composition data;
- (m) operation of any website of a Marijuana Establishment that fails to verify that the entrant is at least 21 years of age;
 - (n) use of unsolicited pop-up advertisements on the internet;
 - (o) any advertising, marketing, and branding materials for marijuana and marijuana products that fails to contain a standard health warning developed by the department of public health;
 - (p) Any advertising of an improper or objectionable nature, including, but not limited to, the use of recipe books or pamphlets for marijuana products which contain obscene or suggestive statements;
 - (q) Advertising, marketing or branding of marijuana or marijuana products, on clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
 - (r) advertising, marketing or branding on or in public or private vehicles and at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues, including, but not limited to, vinyl-wrapped vehicles or signs or logos on delivery vehicles or company cars;
 - (s) signs or other printed matter advertising any brand or kind of marijuana product that are displayed on the exterior or interior of any licensed premises wherein marijuana products are not regularly and usually kept for sale;
 - (t) Advertising or marketing of the price of marijuana or marijuana products, except that it shall provide a catalogue or a printed list of the prices and strains of marijuana available at the Marijuana Establishment to consumers and may post the same catalogue or printed list on its website;
 - (u) Display of marijuana or marijuana products so as to be clearly visible to a person from the exterior of a Marijuana Establishment.

(E) Labeling of Marijuana and Marijuana Products.

- (1) **Labeling of Marijuana Not Sold as a Marijuana Product.** Prior to marijuana being sold or transferred a marijuana cultivator shall ensure the placement of a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each package of marijuana that it makes available for retail sale, containing at a minimum the following information:
 - (a) The name and registration number of the marijuana cultivator that produced the marijuana, together with the retail licensee's business telephone number and electronic mail address, and website information, if any;
 - (b) The quantity of usable marijuana contained within the package;
 - (c) The date that the marijuana retailer or marijuana cultivator packaged the contents and a statement of which licensee performed the packaging;
 - (d) A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;

- (e) The full cannabinoid profile of the marijuana contained within the package, including THC and other cannabinoid level;
- (f) A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with G. L. c. 94G, § 15;
- (g) This statement, including capitalization: “This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN”;
- (h) A symbol or easily recognizable mark issued by the commission not later than March 15, 2018 that indicates the package contains marijuana or a marijuana product; and
- (i) A symbol or other easily recognizable mark issued by the commission not later than March 15, 2018 on the package indicating to children that the product is harmful to children.

This section shall not apply to marijuana packaged by a marijuana cultivator for transport to a marijuana retailer in compliance with 935 CMR 500.105(M) provided however that the marijuana retailer is responsible for compliance with this subsection for all marijuana and Marijuana Products sold or displayed for consumers.

- (2) Labeling of Edible Marijuana Infused Products. Prior to edible Marijuana Products being sold or transferred the product manufacturer shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each edible MARIJUANA PRODUCT that it prepares for retail sale or wholesale, containing at a minimum the following information:
- (a) The name and registration number of the product manufacturer that produced the marijuana product, together with the product manufacturer’s business telephone number, e-mail address, and website information, if any;
 - (b) The name of the marijuana product;
 - (c) Refrigeration of the product is required, as applicable;
 - (d) Net weight or volume in U.S. customary and metric units;
 - (e) The quantity of usable marijuana contained within the product as measured in ounces;

- (f) The type of marijuana used to produce the product, including what, if any, processing technique or solvents were used.
- (g) A list of ingredients, including the full cannabinoid profile of the marijuana contained within the marijuana product, including the amount of delta-nine-tetrahydrocannabinol (Δ^9 -THC) and other cannabinoids in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume;
- (h) The serving size of the marijuana product in milligrams if the package is a multiple-serving package;
- (i) The number of serving sizes within the marijuana product based on the limits provided in 935 CMR 500.150;
- (j) The amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
- (k) The date of creation and the recommended “use by” or expiration date which shall not be altered or changed;
- (l) A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
- (m) Directions for use of the marijuana product if relevant;
- (n) A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with G. L. c. 94G, § 15;
- (o) A warning if nuts or other known allergens are contained in the product;
- (p) This statement, including capitalization: “This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN;”
- (q) A symbol or easily recognizable mark issued by the commission not later than March 15, 2018 that indicates the package contains marijuana or a marijuana product; and
- (r) A symbol or other easily recognizable mark issued by the commission not later than March 15, 2018 on the package indicating to children that the product is harmful to children.

This section shall apply to edible Marijuana Products produced by a marijuana product manufacturer for transport to a marijuana retailer in compliance with 935 CMR 500.105 and shall be in addition to any regulation regarding the appearance of edible Marijuana Products under 935 CMR 500.150.

(3) Labeling of Marijuana Concentrates and Extracts. Prior to marijuana concentrates or extracts being sold or transferred, the product manufacturer shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each marijuana concentrate container that it prepares for retail sale or wholesale, containing at a minimum the following information:

- a. The name and registration number of the product manufacturer that produced the marijuana product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;
- b. The name of the marijuana product;
- c. Product identity including the word "concentrate" or "extract" as applicable;
- d. Net weight of volume expressed in U.S. customary units and metric units;
- e. The type of marijuana used to produce the product, including what, if any, processing technique or solvents were used.
- f. A list of ingredients, including the full cannabinoid profile of the marijuana contained within the marijuana product, including the amount of delta-nine-tetrahydrocannabinol (Δ^9 -THC) and other cannabinoids in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume;
- g. A statement of the serving size and number of servings per container or amount suggested for use based on the limits provided in 935 CMR 500.150;
- h. The date of creation and the recommended "use by" or expiration date;
- i. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
- j. Directions for use of the marijuana product if relevant;
- k. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with G. L. c. 94G, § 15;

- l. A warning if nuts or other known allergens are contained in the product;
- m. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN;"
- n. A symbol or easily recognizable mark issued by the commission not later than March 15, 2018 that indicates the package contains marijuana or a marijuana product; and
- o. A symbol or other easily recognizable mark issued by the commission not later than March 15, 2018 on the package indicating to children that the product is harmful to children.

This section shall apply to marijuana concentrates and extracts produced by a marijuana product manufacturer for transport to a marijuana retailer in compliance with 935 CMR 500.105.

(4) Labeling of Marijuana Infused Tinctures and Topicals. Prior to marijuana infused tinctures or topicals being sold or transferred the product manufacturer shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each container of marijuana infused tincture or topical that it prepares for retail sale or wholesale, containing at a minimum the following information:

- a. The name and registration number of the product manufacturer that produced the marijuana product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;
- b. The marijuana product's identity;
- c. The type of marijuana used to produce the product, including what, if any, processing technique or solvents were used.
- d. A list of ingredients, including the full cannabinoid profile of the marijuana contained within the marijuana product, including the amount of delta-nine-tetrahydrocannabinol (Δ^9 -THC) and other cannabinoids in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume;
- e. Net weight or volume as expressed in U.S. customary units or metric units;

- f. The date of product creation;
- g. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
- h. Directions for use of the marijuana product if relevant;
- i. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with G. L. c. 94G, § 15;
- j. A warning if nuts or other known allergens are contained in the product;
- k. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN;"
- l. A symbol or easily recognizable mark issued by the commission not later than March 15, 2018 that indicates the package contains marijuana or a marijuana product; and
- m. A symbol or other easily recognizable mark issued by the commission not later than March 15, 2018 on the package indicating to children that the product is harmful to children.

This section shall apply to marijuana-infused tinctures and topicals produced by a marijuana product manufacturer for transport to a marijuana retailer in compliance with 935 CMR 500.105(M).

(F) Packaging of Marijuana and Marijuana Products

1. **Child Resistant Packaging.** Licensees licensed subject to 935 CMR 500.050 (E) shall ensure that all marijuana and marijuana products, other than those offered at wholesale by a marijuana cultivator, that are provided for sale to consumers by a licensee shall be sold in child resistant packaging. To be in compliance with this provision, licensees shall ensure:
 - a. That to the extent it is not unreasonably impracticable for the specific type of product, marijuana products are packaged in containers that are (i) opaque or plain in design; (ii) resealable for any marijuana product intended for more than a single use or containing multiple servings;

and (iii) certified by a qualified third-party child-resistant packaging testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 C.F.R. 1700; or

- b. That where compliance with the requirements of child resistant packaging is deemed to be unreasonably impracticable, marijuana products shall be placed in an exit package that is (i) capable of being resealed and made child resistant again after it has been opened; (ii) includes the following statement, including capitalization, in at least 10-point Times New Roman, Helvetica or Arial font: KEEP OUT OF REACH OF CHILDREN; and (iii) is certified by a qualified third-party child-resistant packaging testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 C.F.R. 1700.

2. Limits on Packaging Design. Packaging for marijuana or Marijuana Products sold or displayed for consumers, including any label or imprint affixed to any packaging containing marijuana and Marijuana Products or any exit packages, shall not be attractive minors. Packaging is explicitly prohibited from:

- a. Using bright colors, defined as colors that are “neon” in appearance;
- b. Imitating or having a semblance to any existing branded consumer products, including foods and beverages, that do not contain marijuana;
- c. Featuring cartoons;
- d. Featuring a design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
- e. Featuring symbols or celebrities that are commonly used to market products to minors;
- f. Featuring images of minors; or
- g. Featuring words that refer to products that are commonly associated with minors or marketed by minors.

3. Packaging of Multiple Servings.

- a. Packaging for marijuana products sold or displayed for consumers in multiple servings shall include the following statement on the exterior of the package in a printed font that is no smaller than 10-point Times New Roman, Helvetica or Arial, including capitalization: “INCLUDES MULTIPLE SERVINGS.”
- b. Packaging for marijuana products in solid form sold or displayed for consumers in multiple servings shall allow a consumer to easily perform the division into single servings.

- i. Edible Marijuana Products in a solid form shall be easily and permanently scored to identify individual servings.
 - ii. Notwithstanding clause (i) of this paragraph, where a product is unable because of its form to be easily and permanently scored to identify individual servings, the product shall be packaged in a single serving size. The determination of whether a product is able to be easily and permanently scored shall be decided by the Commission consistent with sub-regulatory guidelines established by the Commission and provided to licensees.
- c. Packaging for marijuana product beverages shall be packages solely in a single serving size. Multiple serving marijuana product beverages are strictly prohibited for sale.
- 4. Each single serving of an Edible MIP contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates that the single serving is a Marijuana Product.
- 5. Serving size shall be determined by the processor but in no instance shall an individual serving size of any MARIJUANA PRODUCT contain more than five (5) milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC).

(G) Packaging and Labeling Pre-Approval.

Prior to a Marijuana Product being sold at a Marijuana Establishment, a licensee or license applicant may submit an application, in a form and manner determined by the Commission, for packaging and label approval to the Commission. The Commission may charge a fee for packaging and labeling pre-approval. The Commission shall issue guidelines on the pre-approval review process, provided, however, that the packaging and labeling pre-approval process shall in no way substitute for compliance with the regulations set forth in 935 CMR 500.105(D)-(F).

(H) Inventory

- (1) A Marijuana Establishment must limit its inventory of seeds, plants, and usable marijuana to reflect the projected needs of consumers in its market area.
- (2) Real-time inventory shall be maintained as specified by the Commission and in 935 CMR 500.105(H)(3) and (4), including, at a minimum, an inventory of marijuana plants; marijuana plant-clones in any phase of development such as propagation, vegetation, and flowering; marijuana ready for dispensing; all Marijuana products; and all damaged, defective, expired, or contaminated marijuana and Marijuana products awaiting disposal.
- (3) A Marijuana Establishment shall:

- (a) Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of marijuana and Marijuana products in the process of cultivation, and finished, stored marijuana;
 - (b) Conduct a monthly inventory of marijuana in the process of cultivation and finished, stored marijuana;
 - (c) Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and
 - (d) Promptly transcribe inventories if taken by use of an oral recording device.
- (4) The record of each inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.
- (5) A Marijuana Establishment shall tag and track all marijuana seeds, plants, and marijuana products, using a seed-to-sale methodology in a form and manner to be approved by the Commission.
- (6) A Marijuana Establishment that is cultivating, processing or selling marijuana and marijuana products for medical use as well as marijuana and marijuana products for adult use must create virtual separation of the products through tracking methodology approved by the Commission under 935 CMR 500.
- (I) Record Keeping. Records of a Marijuana Establishment must be available for inspection by the Commission, upon request. The records of a Marijuana Establishment shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include but are not necessarily limited to all records required in any section of 935 CMR 500.000, in addition to the following:
 - (1) Written operating procedures as required by 935 CMR 500.105(A);
 - (2) Inventory records as required by 935 CMR 500.105(H);
 - (3) Seed-to-sale tracking records for all marijuana and marijuana products as required by 935 CMR 500.105(H)(5);
 - (4) The following personnel records:
 - (a) Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;
 - (b) A personnel record for each Marijuana Establishment Agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the Marijuana Establishment and shall include, at a minimum, the following:
 - (i) All materials submitted to the Commission pursuant to 935 CMR 500.030(B);
 - (ii) Documentation of verification of references;

- (iii) The job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;
 - (iv) Documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;
 - (v) A copy of the application that the Marijuana Establishment submitted to the Commission on behalf of any prospective Marijuana Establishment Agent;
 - (vi) Documentation of periodic performance evaluations; and
 - (vii) A record of any disciplinary action taken.
 - (vii) Notice of completed responsible vendor and 8-hour related duty training.
 - (c) A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
 - (d) Personnel policies and procedures; and
 - (e) All background check reports obtained in accordance with 935 CMR 500.030;
- (5) Business records, which shall include manual or computerized records of:
- (a) Assets and liabilities;
 - (b) Monetary transactions;
 - (c) Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;
 - (d) Sales records that indicate the name of the registered qualifying patient or personal caregiver to whom marijuana has been dispensed, including the quantity, form, and cost; and
 - (e) Salary and wages paid to each employee, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a Marijuana Establishment, including members of the non-profit corporation, if any.
- (6) Waste disposal records as required under 935 CMR 500.105(L); and
- (7) Following closure of a Marijuana Establishment, all records must be kept for at least 2 years at the expense of the Marijuana Establishment and in a form and location acceptable to the Commission.
- (J) Liability Insurance Coverage or Maintenance of Escrow
- (1) A Marijuana Establishment shall obtain and maintain general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, except as provided in 935 CMR 500.105(J)(2) or otherwise approved by the Commission. The deductible for each policy

shall be no higher than \$5,000 per occurrence.

(2) A Marijuana Establishment that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 500.105(J)(1) may place in escrow a sum of no less than \$250,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.

(3) The escrow account required pursuant to 935 CMR 500.105(J)(2) must be replenished within 10 business days of any expenditure.

(4) Reports documenting compliance with 935 CMR 500.105(J) shall be made in a manner and form determined by the Commission pursuant to 935 CMR 500.

(K) Storage Requirements

(1) A Marijuana Establishment shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 935 CMR 500.105 and 500.110.

(2) A RMD shall have separate areas for storage of marijuana that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging have been opened or breached, until such products are destroyed.

(3) RMD storage areas shall be maintained in a clean and orderly condition.

(4) RMD storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.

(5) RMD storage areas shall be maintained in accordance with the security requirements of 935 CMR 500.110.

(L) Waste Disposal

(1) All waste, including waste composed of or containing finished marijuana and Marijuana products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations.

(2) Liquid waste containing marijuana or by-products of marijuana processing shall be disposed of in compliance with requirements for discharge into surface water (314 CMR 3.00), groundwater (314 CMR 5.00), and sewers (314 CMR 7.00), or disposed of in an industrial wastewater holding tank in accordance with 314 CMR 18.00.

(3) Solid waste generated at a Marijuana Establishment shall be disposed of as follows:

(a) Incineration in a commercial or municipal waste combustor in Massachusetts holding a valid permit issued by the Commission of Environmental Protection (DEP). No fewer than two Marijuana Establishment Agents must witness and document destruction; or

(b) Disposal in a landfill holding a valid permit issued by the DEP or by the appropriate state agency in the state in which the facility is located. No fewer than two Marijuana Establishment Agents must witness and document disposal in the landfill;

(c) Recycled in a manner approved by the Commission; or

(d) Grinding and incorporating the marijuana waste with solid wastes such that the resulting mixture renders the marijuana waste unusable. Once such marijuana waste has been rendered unusable, it may be:

(i) Disposed of in a solid waste management facility that holds a valid permit issued by the DEP or by the appropriate state agency in the state in which the facility is located; or

(ii) If the material mixed with the medical marijuana waste is organic material as defined in 310 CMR 16.02, the mixture may be composted at an operation that is in compliance with the requirements of 310 CMR 16.00.

(4) When marijuana or Marijuana products are disposed of, the Marijuana Establishment must create and maintain a written record of the date, the type and quantity disposed of, the manner of disposal, and the persons present during the disposal, with their signatures. Marijuana Establishments shall keep disposal records for at least two years.

(M) Transportation Between Marijuana Establishments

(1) General Requirements

(a) A licensed Marijuana Establishment shall, as an element of its license, be licensed to transport its own Marijuana and Marijuana Products to other licensed Marijuana Establishments, except as otherwise provided herein.

(b) Marijuana and Marijuana Products may only be transported between licensed Marijuana Establishments by registered Marijuana Establishment Agents.

(c) A licensed Marijuana Transporter may contract with a licensed Marijuana Establishment to transport that licensee's Marijuana and marijuana products to other licensed Marijuana Establishments.

(d) The originating and receiving licensed Marijuana Establishments shall ensure that all transported Marijuana and Marijuana Products are linked to the seed-to-sale tracking program.

(e) Any Marijuana or marijuana product that is undeliverable or is refused by the destination Marijuana Establishment shall be transported back to the originating Marijuana Establishment.

- (f) All vehicles transporting Marijuana and Marijuana Products shall be staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.
- (g) Prior to leaving a Marijuana Establishment for the purpose of transporting Marijuana or Marijuana Products, the originating Marijuana Establishment must weigh, inventory, and account for, on video, all Marijuana and Marijuana Products to be transported.
- (h) Within eight hours after arrival at the destination Marijuana Establishment, the destination Marijuana Establishment must re-weigh, re-inventory, and account for, on video, all marijuana and Marijuana Products transported.
- (i) When videotaping the weighing, inventorying, and accounting of Marijuana or Marijuana Products before transportation or after receipt, the video must show each product being weighed, the weight, and the manifest.
- (j) Marijuana and Marijuana Products must be packaged in sealed, labeled, and tamper-proof packaging prior to and during transportation.
- (k) In the case of an emergency stop during the transportation of Marijuana or Marijuana Products, a log must be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle.
- (l) A Marijuana Establishment or a Marijuana Transporter transporting Marijuana or Marijuana Products shall ensure that all delivery times and routes are randomized.
- (m) A Marijuana Establishment or a Marijuana Transporter transporting Marijuana or Marijuana Products shall ensure that all delivery routes remain within the Commonwealth of Massachusetts.

(2) Reporting Requirements

- (a) Marijuana Establishment Agents must document and report any unusual discrepancy in weight or inventory to the Commission and local law enforcement within 24 hours of the discovery of such a discrepancy.
- (b) Marijuana Establishment Agents shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, within 24 hours of such accidents, diversions, losses, or other reportable incidents.

(3) Vehicles

- (a) A vehicle used for transporting Marijuana or Marijuana Products must be:
 - (i) owned by the Marijuana Establishment or the Marijuana Transporter;
 - (ii) properly registered, inspected, and insured in the Commonwealth of Massachusetts (documentation of such status shall be maintained as records of the Marijuana Establishment or the Marijuana Transporter, and shall be made available to the Commission upon request);
 - (iii) equipped with an alarm system approved by the Commission; and
 - (iv) equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of Marijuana and Marijuana Products.
- (b) Marijuana and Marijuana Products must not be visible from outside the vehicle.
- (c) Any vehicle used to transport Marijuana and Marijuana Products shall not bear any markings indicating that the vehicle is being used to transport Marijuana or Marijuana Products, and any such vehicle shall not indicate the name of the Marijuana Establishment or the Marijuana Transporter.
- (d) When transporting marijuana or Marijuana Products, no other products may be transported or stored in the same vehicle.
- (e) No firearms may be located within the vehicle or on a Marijuana Establishment Agent.

(4) Storage Requirements

- (a) Marijuana and Marijuana Products must be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana or Marijuana Products.
- (b) The storage compartment must be sufficiently secure that it cannot be easily removed.
- (c) If a Marijuana Establishment, pursuant to a Marijuana Transporter License, or a Marijuana Transporter is transporting Marijuana or Marijuana Products for more than one Marijuana Establishment at a time, the Marijuana or Marijuana Products for each Marijuana Establishment shall be kept in a separate locked storage compartment during transportation and separate manifests shall be maintained for each Marijuana Establishment.

(5) Communications

- (a) Any vehicle used to transport Marijuana or Marijuana Products shall contain a global positioning system (GPS) monitoring device that is:
 - (i) not a mobile device that is easily removable; attached to the vehicle at all times

that the vehicle contains Marijuana or Marijuana Products;
(ii) monitored by the Marijuana Establishment or Marijuana Transporter during transport of Marijuana or Marijuana Products; and
(iii) inspected by the Commission prior to initial transportation of Marijuana or Marijuana Products, and after any alteration to the locked storage compartment.

(b) Each Marijuana Establishment Agent transporting Marijuana and Marijuana Products shall have access to a secure form of communication with personnel at the originating location at all times that the vehicle contains Marijuana and Marijuana Products.

(c) Secure types of communication include, but are not limited to:

- (i) two-way digital or analog radio (UHF or VHF);
- (ii) cellular phone; and
- (iii) satellite phone.

(d) When choosing a type of secure communications, the following shall be taken into consideration:

- (i) cellular signal coverage;
- (ii) transportation area;
- (iii) base capabilities;
- (iv) antenna coverage; and
- (v) frequency of transportation.

(e) Prior to, and immediately after leaving the originating location, the Marijuana Establishment Agents shall use the secure form of communication to contact the originating location to test communications and GPS operability.

(f) If communications or the GPS system fail while on route to a delivery, the Marijuana Establishment Agents transporting Marijuana or Marijuana Products must return to the originating location until the communication system or GPS system is operational.

(g) The Marijuana Establishment Agents transporting marijuana or Marijuana Products shall contact the originating location when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.

(h) The originating location must have a Marijuana Establishment Agent assigned to monitoring the GPS unit and secure form of communication, who must log all official communications with Marijuana Establishment Agents transporting marijuana or Marijuana Products.

(6) Manifests

(a) A manifest shall be filled out in triplicate, with the original manifest remaining with the

originating Marijuana Establishment, a second copy provide to the destination Marijuana Establishment upon arrival, and a copy to be kept with the licensed Marijuana Establishment Agent during transportation and returned to the Marijuana Establishment or Marijuana Transporter upon completion of the delivery.

- (b) Prior to transport, the manifest shall be securely transmitted to the destination Marijuana Establishment by facsimile or email.
- (c) Upon arrival at the destination Marijuana Establishment, a Marijuana Establishment Agent at the destination Marijuana Establishment shall compare the manifest produced by the agents who transported the Marijuana or Marijuana Products to the copy transmitted by facsimile or email. This manifest must, at a minimum, include:
 - (i) The originating Marijuana Establishment name, address, and registration number;
 - (ii) the names and registration numbers of the agents who transported the marijuana or Marijuana Products;
 - (iii) the name and registration number of the Marijuana Establishment Agent who prepared the manifest;
 - (iv) the destination Marijuana Establishment name, address, and registration number;
 - (v) a description of the marijuana or Marijuana Products being transported, including the weight and form or type of product;
 - (vi) the mileage of the transporting vehicle at departure from originating Marijuana Establishment and mileage upon arrival at destination Marijuana Establishment, as well as mileage upon return to originating Marijuana Establishment;
 - (vii) the date and time of departure from originating Marijuana Establishment and arrival at destination Marijuana Establishment for each delivery;
 - (viii) signature lines for the agents who transported the Marijuana or Marijuana Products;
 - (ix) a signature line for the Marijuana Establishment Agent who receives the marijuana or Marijuana Products;
 - (x) the weight and inventory before departure and upon receipt;
 - (xi) the date and time that the delivered products were re-weighed and re-inventoried;
 - (xii) the name of the Marijuana Establishment Agent at the destination Marijuana Establishment who re-weighed and re-inventoried products; and
 - (xiii) the vehicle make, model, and license plate number.
- (d) The manifest shall be maintained within the vehicle during the entire transportation process, until the delivery is completed.
- (e) A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission upon request.

(7) Requirements for Agents

- (a) Each employee or agent transporting or otherwise handling marijuana products for a Marijuana Transporter must be registered as a Marijuana Establishment Agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the Marijuana Establishment Agent will operate for the Marijuana Transporter prior to transporting or otherwise handling marijuana or marijuana products.
- (b) A Marijuana Establishment Agent shall carry his or her registration card at all times when transporting marijuana or marijuana products, and shall produce his or her registration card to the Commission or law enforcement officials upon request.

- (8) Marijuana Transporters shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(N) Delivery of Marijuana and Marijuana Products to Consumers

(1) General Requirements

- (a) A Marijuana Delivery License is a necessary prerequisite for the delivery of Marijuana and Marijuana Products to consumers by licensed Marijuana Establishments.
- (b) All individuals transporting Marijuana and Marijuana Products to consumers must have a Marijuana Establishment Agent registration.
- (c) Delivery is limited to the Commonwealth of Massachusetts, but is not restricted to any geographic location within the Commonwealth.
- (d) For home delivery, each order must be packaged and labeled according to the regulations governing final Marijuana and Marijuana Products at the originating location prior to transportation to the consumer. For example, packaging and labeling requirements for products sold at Marijuana Retailers shall apply to all products sold to consumers via home delivery by Marijuana Retailers.
- (e) Any Marijuana or Marijuana Product that is undeliverable or is refused by the consumer shall be transported back to the originating Marijuana Establishment.
- (f) In the event of simultaneous delivery of medical marijuana products and adult use cannabis and marijuana products, the delivery vehicle shall maintain two clearly labeled lock boxes to separate the products physically.
- (g) The maximum retail value of any home delivery shall be \$3,000.00, although multiple orders of different Marijuana and Marijuana Products may be included within that maximum value.

- (h) A Marijuana Establishment that has a Marijuana Delivery License may only deliver Marijuana and Marijuana Products to a residence, which means a dwelling such as a house, condominium, or apartment, but does not include a dormitory, hotel, motel, bed and breakfast, or other similar commercial dwelling.
 - (i) Home deliveries can only be made during the hours of operation of the Marijuana Establishment that has a Marijuana Delivery license, and the Marijuana Establishment must maintain coverage by Marijuana Establishment Agents at the Marijuana Establishment until the Marijuana Establishment Agents return the manifest and any undelivered products.
 - (j) A Marijuana Establishment or a Marijuana Transporter transporting Marijuana or Marijuana Products shall ensure that all delivery routes remain within the Commonwealth of Massachusetts.
- (2) Consumer Verification
 - (a) A home delivery order from a consumer must include the consumer's name, address, date of birth, the requested date of delivery, and the specific Marijuana or Marijuana Products requested.
 - (b) Before home delivery to any consumer, the consumer must produce proof of identity, residence, and age, and the consumer must sign the manifest to confirm the receipt of marijuana or Marijuana Products.
- (3) Transportation Requirements for Home Delivery
 - (a) All vehicles transporting Marijuana and Marijuana Products for home delivery shall be staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.
 - (b) Marijuana and Marijuana Products must be packaged in sealed, labeled, and tamper-proof packaging prior to and during transportation, subject to the same requirements for Marijuana and Marijuana Products before transfer to another Marijuana Establishment.
 - (c) In the case of an emergency stop during the transportation of Marijuana or Marijuana Products, a log must be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle.
 - (d) A Marijuana Establishment transporting Marijuana or Marijuana Products for home delivery shall ensure that all delivery times and routes are randomized.
- (4) Reporting Requirements
 - (a) Marijuana Establishment Agents must document and report any unusual discrepancy in weight or inventory to the Commission and local law

enforcement within 24 hours of the discovery of such a discrepancy.

- (b) Marijuana Establishment Agents shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, within 24 hours of such accidents, diversions, losses, or other reportable incidents.

(5) Vehicles

- (a) A vehicle used for transporting Marijuana or Marijuana Products must be:
 - (i) owned by the Marijuana Establishment;
 - (ii) properly registered, inspected, and insured in the Commonwealth of Massachusetts (documentation of such status shall be maintained as records of the Marijuana Establishment, and shall be made available to the Commission upon request);
 - (iii) equipped with an alarm system approved by the Commission; and
 - (iv) equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of Marijuana and Marijuana Products.
- (b) Marijuana and Marijuana Products must not be visible from outside the vehicle.
- (c) Any vehicle used to transport Marijuana and Marijuana Products shall not bear any markings indicating that the vehicle is being used to transport Marijuana or Marijuana Products, and any such vehicle shall not indicate the name of the Marijuana Establishment.
- (d) When transporting marijuana or Marijuana Products, no other products may be transported or stored in the same vehicle.
- (e) No firearms may be located within the vehicle or on a Marijuana Establishment Agent.

(6) Storage Requirements

- (a) Marijuana and Marijuana Products must be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana or Marijuana Products.
- (b) The storage compartment must be sufficiently secure that it cannot be easily removed.

(7) Communications/Tracking

- (a) Any vehicle used to transport Marijuana or Marijuana Products shall contain a global positioning system (GPS) monitoring device that is:

- (i) not a mobile device that is easily removable;
 - (ii) attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products;
 - (iii) monitored by the Marijuana Establishment during transport of Marijuana or Marijuana Products; and
 - (iv) inspected by the Commission prior to initial transportation of Marijuana or Marijuana Products, and after any alteration to the locked storage compartment.
- (b) Each Marijuana Establishment Agent transporting Marijuana and Marijuana Products shall have access to a secure form of communication with personnel at the Marijuana Establishment at all times that the vehicle contains Marijuana and Marijuana Products.
- (c) Secure types of communication include, but are not limited to:
- (i) two-way digital or analog radio (UHF or VHF);
 - (ii) cellular phone; and
 - (iii) satellite phone.
- (d) When choosing a type of secure communications, the following shall be taken into consideration:
- (i) cellular signal coverage;
 - (ii) transportation area;
 - (iii) base capabilities;
 - (iv) antenna coverage; and
 - (v) frequency of transportation.
- (e) Prior to, and immediately after leaving the originating location, the Marijuana Establishment Agents shall use the secure form of communication to contact the Marijuana Establishment to test communications and GPS operability.
- (f) If communications or the GPS system fail while on route to a delivery, the Marijuana Establishment Agents transporting Marijuana or Marijuana Products must return to the Marijuana Establishment until the communication system or GPS system is operational.
- (g) The Marijuana Establishment Agents transporting marijuana or Marijuana Products shall contact the Marijuana Establishment when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.
- (h) The Marijuana Establishment must have a Marijuana Establishment Agent assigned to monitoring the GPS unit and secure form of communication, who must log all official communications with Marijuana Establishment Agents transporting marijuana or

Marijuana Products.

(8) Manifests

- (a) A manifest shall be filled out in duplicate, with the original manifest remaining with the originating Marijuana Establishment, and a copy to be kept with the Marijuana Establishment Agent during transportation and returned to the Marijuana Establishment upon completion of the delivery.
- (b) This manifest must, at a minimum, include;
 - (i) originating Marijuana Establishment name, address, and registration number;
 - (ii) the names and registration numbers of the agents who transported the marijuana or Marijuana Products;
 - (iii) the name and registration number of the Marijuana Establishment Agent who prepared the manifest;
 - (iv) the consumer's name and address;
 - (v) a description of the marijuana or Marijuana Products being transported, including the weight and form or type of product;
 - (vi) the mileage of the transporting vehicle at departure from the Marijuana Establishment, mileage upon arrival at each consumer destination, and mileage upon return to the Marijuana Establishment;
 - (vii) the date and time of departure from the Marijuana Establishment and arrival at each consumer destination for each delivery;
 - (viii) signature lines for the agents who transported the Marijuana or MARIJUANA PRODUCTS;
 - (ix) a signature line for consumer who receives the marijuana or Marijuana Products; and
 - (x) the vehicle make, model, and license plate number.
- (c) The manifest shall be maintained within the vehicle during the entire transportation process, until all the deliveries are completed.
- (d) A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission upon request.

(9) Requirements for Agents

- (a) Each employee or agent transporting or otherwise handling marijuana products for a Marijuana Delivery Operator must be registered as a Marijuana Establishment Agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the Marijuana Establishment Agent will operate for the Marijuana Delivery Operator prior to transporting or otherwise handling marijuana or marijuana products.
 - (b) A Marijuana Establishment Agent shall carry his or her registration card at all times when transporting marijuana or marijuana products, and shall produce his or her registration card to the Commission or law enforcement officials upon request.
- (10) Marijuana Transporters shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(O) Access to the Commission, Emergency Responders and Law Enforcement

- (1) The following individuals shall have access to a Marijuana Establishment or Marijuana Establishment transportation vehicle:
 - (a) Representatives of the Commission in the course of responsibilities authorized by 935 CMR 500.000 or the Act;
 - (b) Representatives of other state agencies of the Commonwealth of Massachusetts acting within their jurisdiction; and
 - (b) Emergency responders in the course of responding to an emergency.
- (2) This regulation shall not be construed to prohibit access to authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(P) Bond

- (1) Prior to commencing operations, a Marijuana Establishment shall provide proof of having obtained a surety bond in an amount equal to its licensure fee payable to the Marijuana Regulation Fund to ensure payment of the cost incurred for the destruction of cannabis goods necessitated by a violation of the Act or 935 CMR 500.000 or the cessation of operation of the Marijuana Establishment.
- (2) All bonds required under this regulation must be issued by a corporate surety licensed to transact surety business in the Commonwealth of Massachusetts.
- (3) If the Marijuana Establishment is unable to secure a surety bond, as required by 935 CMR 500.105(P) may place in escrow a sum of no less than \$250,000 or such other

amount approved by the Commission, to be expended for coverage of liabilities.

- (4) The escrow account required pursuant to 935 CMR 500.105(P)(3) must be replenished within 10 business days of any expenditure required under this section, except if the Marijuana Establishment has ceased operations. Documentation of the replenishment must be promptly sent to the Commission.

(Q) Social Equity Program

- (1) There shall be a Social Equity Program established by the Commission to provide training and technical assistance to eligible applicants and licensees which may include, but shall not be limited to:

- (a) Management, recruitment and employee trainings;
- (b) Accounting and sales forecasting;
- (c) Tax prediction and compliance;
- (d) Legal compliance;
- (e) Business plan creation and operational development;
- (f) Marijuana industry best practices; and
- (g) Assistance with identifying or raising funds or capital.

- (2) Eligibility for the Social Equity Program shall be met if applicants or licensees satisfy one or more of the following criteria:

- (a) Residency in an area of disproportionate impact, as defined by the Commission, for at least 5 of the preceding 10 years, as established by:
 - 1. A Massachusetts driver's record or Massachusetts ID card record;
 - 2. A signed lease agreement that includes the subject's name;
 - 3. Residential property deed that includes the subject's name;
 - 4. School records;
 - 5. Housing authority records;
 - 6. Banking records;
 - 7. Utility bills; or
 - 8. Dated notices or correspondence from a local or state government entity that includes the subject's name.
- vi. Residency in Massachusetts for at least the preceding 12 months and a conviction for 94C offense under chapter 94C of the General Laws or an equivalent conviction in another jurisdiction; or
- vii. Residency in Massachusetts for at least the preceding 12 months and proof that the individual was either married to or the child of an individual convicted under chapter 94C of the General Laws or an equivalent conviction in another jurisdiction.

500.110: Security Requirements for Marijuana Establishments

- (A) **General Requirements.** A Marijuana Establishment shall implement sufficient safety measures to deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at the Marijuana Establishment. Security measures taken by the

licensee to protect the premises, employees, consumers and general public shall include, but not be limited to, the following:

- (1) Positively identifying individuals seeking access to the premises of the Marijuana Establishment or to whom Marijuana or Marijuana Products are being delivered pursuant to 935 CMR 500.105(N) to limit access solely to individuals 21 years of age or older;
 - (2) Adopting procedures to prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by these regulations and its enabling statute are allowed to remain on the premises;
 - (3) Disposing of marijuana in accordance with 935 CMR 500.105(L) in excess of the quantity required for normal, efficient operation as established within 935 CMR 500.105;
 - (4) Securing all entrances to the Marijuana Establishment to prevent unauthorized access;
 - (5) Establishing Limited Access Areas pursuant to 935 CMR 500.110(D), which shall be accessible only to specifically authorized personnel limited to include only the minimum number of employees essential for efficient operation;
 - (6) Storing all finished marijuana or marijuana products in a secure, locked safe or vault in such a manner as to prevent diversion, theft and loss;
 - (7) Keeping all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, processing or storage of marijuana and marijuana infused products securely locked and protected from entry, except for the actual time required to remove or replace marijuana;
 - (8) Keeping all locks and security equipment in good working order;
 - (9) Prohibiting keys, if any, from being left in the locks or stored or placed in a location accessible to persons other than specifically authorized personnel;
 - (10) Prohibiting accessibility of security measures, such as combination numbers, passwords or electronic or biometric security systems, to persons other than specifically authorized personnel;
 - (11) Ensuring that the outside perimeter of the Marijuana Establishment is sufficiently lit to facilitate surveillance, where applicable;
 - (12) Ensuring that all marijuana or marijuana products are kept out of plain sight and are not visible from outside the Marijuana Establishment without the use of binoculars, optical aids or aircraft;
 - (13) Developing emergency policies and procedures for securing all product following any instance of diversion, theft or loss of marijuana, and conduct an assessment to determine whether additional safeguards are necessary;
 - (14) Developing sufficient additional safeguards as required by the Commission for Marijuana Establishments that present special security concerns; and
- Sharing the Marijuana Establishment's security plan and procedures with local law enforcement and fire services and periodically updating local law

enforcement and fire services if the plans or procedures are modified in a material way.

(B) Alternate Security Provisions. Notwithstanding the requirements specified in 935 CMR 500.110(A), (E) and (F), if a Marijuana Establishment has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures.

(C) Buffer Zone. A Marijuana Establishment shall comply with all local requirements regarding siting, provided however that if no local requirements exist, then Marijuana Establishment shall not be sited within a radius of 500 feet of a public or private school, daycare center, or any facility in which children commonly congregate. The 500-foot distance under this section shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment.

(D) Limited Access Areas.

- (1) All limited access areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter—Limited Access Area—Access Limited to Authorized Personnel Only" in lettering no smaller than 1 inch in height.
- (2) All limited access areas shall be clearly described by the filing of a diagram of the registered premises, in the form and manner determined by the Commission, reflecting entrances and exits, walls, partitions, vegetation, flowering, processing, production, storage, disposal and retail sales areas.
- (3) Access to limited access areas shall be restricted to employees, agents or volunteers specifically permitted by the Marijuana Establishment, agents of the Commission, state and local law enforcement acting within their lawful jurisdiction and emergency personnel acting within their official capacity.
- (4) Employees of the Marijuana Establishment shall visibly display an employee identification badge issued by the Marijuana Establishment at all times while at the Marijuana Establishment or transporting marijuana.
- (5) All outside vendors, contractors and visitors shall obtain a visitor identification badge prior to entering a limited access area, and shall be escorted at all times by a Marijuana Establishment Agent authorized to enter the limited access area. The visitor identification badge shall be visibly displayed at all times while the visitor is in any limited access area. All visitors must be logged in and out and that log shall be available for inspection by the Commission at all times. All visitor identification badges shall be returned to the Marijuana Establishment upon exit.

(E) Security and Alarm Requirements for Marijuana Establishments Operating Enclosed Areas

- (1) A Marijuana Establishment located, in whole or in part, in a building, greenhouse or other enclosed area shall have an adequate security system to prevent and detect diversion, theft or loss of marijuana or unauthorized intrusion, utilizing commercial grade equipment which shall, at a minimum, include:
- a. A perimeter alarm on all building entry and exit points and perimeter windows, if any;
 - b. A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to designated employees of the Marijuana Establishment within five (5) minutes after the failure, either by telephone, email or text message;
 - c. A duress alarm, panic alarm or hold-up alarm connected to local public safety or law enforcement authorities;
 - d. Video cameras in all areas that may contain marijuana, at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas and areas where marijuana is cultivated, harvested, processed, prepared, stored, handled or dispensed. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the Marijuana Establishment or area;
 - e. Twenty-four hour recordings from all video cameras that are available immediate viewing by the Commission upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
 - f. The ability to immediately produce a clear, color still photo whether live or recorded;
 - g. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
 - h. The ability to remain operational during a power outage; and
 - i. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alternation of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

- (2) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
- (3) In addition to the requirements listed in 935 CMR 500.110(E)(1) and (2), the Marijuana Establishment shall have a back-up alarm system, with all the capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.
- (4) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission upon request. If the surveillance room is on-site of the Marijuana Establishment it shall remain locked and shall not be used for any other function.
- (5) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
- (6) Trees, bushes and other foliage outside of the Marijuana Establishment shall be maintained so as to prevent a person or persons from concealing themselves from sight.

(F) Security and Alarm Requirements for Marijuana Establishments Operating an Open Cultivation Facility

- (1) A Marijuana Establishment that is an open cultivation facility shall implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of marijuana which shall, at a minimum, include:
 - a. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
 - b. Commercial-grade, non-residential locks;
 - c. A security alarm system that shall:
 - i. Be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
 - ii. Provide an alert to designated employees of the Marijuana Establishment within five (5) minutes after a notification of an alarm or a system failure, either by telephone, email or text message;
 - d. Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. Cameras shall be angled so as to allow for the capture of clear

and certain identification of any person entering or exiting the Marijuana Establishment or area;

- e. Twenty-four hour recordings from all video cameras that are available immediate viewing by the Commission upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
 - f. The ability to immediately produce a clear, color still photo whether live or recorded;
 - g. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
 - h. The ability to remain operational during a power outage;
 - i. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alternation of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
- (2) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
 - (3) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission upon request. If the surveillance room is on-site of the Marijuana Establishment it shall remain locked and shall not be used for any other function.
 - (4) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
 - (5) Security plans and procedures shared with local law enforcement pursuant to 935 CMR 500.110(A)(15) shall include:
 - a. A description of the location and operation of the security system, including the location of the central control on the premises;
 - b. A schematic of security zones;
 - c. The name of the security alarm company and monitoring company, if any;
 - d. A floor plan or layout of the facility in a manner and scope as required by the municipality.

(G) Security Requirements for Licensed Delivery Operations

(1) A Marijuana Establishment holding a license authorizing deliveries pursuant to 935 CMR 500.105(M)-(N) shall implement adequate security measures to ensure that each vehicle used for transportation of Marijuana and Marijuana Products is not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of marijuana. Security measures shall, at a minimum, include for each operational delivery vehicle:

- a. Appropriate staffing including, at a minimum, two Marijuana Establishment Agents, one of whom shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products pursuant to 935 CMR 500.105(M)-(N);
- b. A vehicle security system that includes an exterior alarm;
- c. A minimum of two secure, locked storage compartments, that are part of the vehicle and not easily removable, for the purpose of segregating Medical Marijuana and Marijuana Products and Adult-Use Marijuana and Marijuana Products and transporting said products;
- d. A means of secure communication between each vehicle and the Marijuana Establishment's dispatching location which shall be monitored at all times that a vehicle is performing a delivery route. Means of communication shall include:
 - i. two-way digital or analog radio (UHF or VHF);
 - ii. cellular phone; or
 - iii. satellite phone.
- e. A global positioning system (GPS) monitoring device shall be:
 - i. Contained within a locked storage compartment with said key to the locked storage compartment maintained at the Marijuana Establishment and not in the vehicle;
 - ii. Attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products
 - iii. Monitored by the Marijuana Establishment during transport of Marijuana or Marijuana Products; and
 - iv. Inspected by the Commission prior to initial transportation of Marijuana or MIPs, and after any alteration to the locked storage compartment.
- f. A video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:
 - i. the ability to produce a clear color still photo whether live or

- recorded; and
 - ii. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and shall not significantly obscure the picture.
 - g. All security equipment on vehicles shall be in good working order and shall be inspected and tested at regular intervals, no to exceed 30 calendar days from the previous inspection and test.
- (2) All Marijuana or Marijuana Products shall be secured in a locked storage compartment required pursuant to 935 CMR 500.110(G)(1)(C) during the duration of transport from the Marijuana Establishment to the verified delivery address. Marijuana or Marijuana Products that are not successfully delivered to an adult twenty-one (21) years of age or older at the verified delivery address shall be returned to the vehicle and stored in the locked storage compartment for transport back to the Marijuana Establishment.
- (3) All Marijuana or Marijuana Products unable to be delivered in accordance with the vehicle manifesto shall be removed from vehicle in a timely manner upon return to the Marijuana Establishment. Marijuana or Marijuana Products shall not be stored in a vehicle overnight.
- (4) Vehicles used for the transport of Marijuana and Marijuana Products shall:
 - a. Be locked and secured when not in use;
 - b. Plain in description with no signs, pictures or other markings that identify that the vehicle is used for the transport of Marijuana or Marijuana Products;
 - c. Pursuant to 935 500.110(A)(12), the storage area of a vehicle used to transport Marijuana or Marijuana Products shall be opaque to prevent the viewing of Marijuana or Marijuana Products from outside the vehicle.
- (5) A Marijuana Establishment operating under a retail, delivery-only license shall notify law enforcement immediately and without delay of any breach of security during the course of transportation in accordance with 935 CMR 500.110(H).

(H) Incident Reporting

- (1) A Marijuana Establishment shall notify appropriate law enforcement authorities and the Commission of any breach of security immediately and, in no instance, more than 24 hours following discovery of the breach; provided, however that Marijuana Establishments operating under a retail, delivery-only license pursuant to 935 CMR 500.100(E)(3) shall notify law enforcement immediately and without delay of any breach of security during the course of transportation pursuant to 935 CMR 500.110(G)(4). Notification shall occur, but not be limited to, the following occasions:
 - a. Discovery of discrepancies identified during inventory;
 - b. Diversion, theft or loss of any marijuana or marijuana product;
 - c. Any criminal action involving or occurring on or in the Marijuana Establishment premises;

- d. Any suspicious act involving the sale, cultivation, distribution, processing or production of marijuana by any person;
- e. Unauthorized destruction of marijuana;
- f. Any loss or unauthorized alteration of records related to marijuana;
- g. An alarm activation or other event that requires response by public safety personnel or security personnel privately engaged by the Marijuana Establishment;
- h. The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight (8) hours; and
- i. Any other breach of security.

- (2) A Marijuana Establishment shall, within 10 calendar days, provide notice to the Commission of any incident described in 935 CMR 500.110(H)(1) by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective action taken, and confirmation that the appropriate law enforcement authorities were notified.
- (3) All documentation related to an incident that is reportable pursuant to 935 CMR 500.110 (H)(1) shall be maintained by a Marijuana Establishment for not less than one (1) year or the duration of an open investigation, whichever is longer, and made available to the Commission and law enforcement authorities acting within their lawful jurisdiction upon request.

- (I) Security Audits. A Marijuana Establishment must, on an annual basis, obtain at its own expense, a security system audit by a vendor approved by the Commission. A report of such audit must be submitted, in a form and manner determined by the Commission, no later than thirty (30) calendar days after the audit is conducted. If the audit identifies concerns related to the Marijuana Establishment's security system, the Marijuana Establishment must also submit a plan to mitigate those concerns within ten (10) business days of submitting the audit.

500.120: Additional Operational Requirements for Marijuana Cultivators

- (A) In addition to the General Operational Requirements for Marijuana Establishments required under 935 CMR 500.105, Marijuana Cultivators shall comply with Additional Operational Requirements required under 935 CMR 500.120.
- (B) A marijuana cultivator may cultivate its own marijuana or acquire marijuana from other Marijuana Establishments for the purposes of propagation.
- (C) Only a licensed marijuana cultivator is permitted to cultivate marijuana for adult use for sale to Marijuana Establishments, research facilities or consumers.

- (D) All phases of the cultivation, processing and packaging of marijuana by a marijuana cultivator shall take place in a designated area that is not visible from a public place without the use of binoculars, aircraft or other optical aids.
- (E) Application of pesticides shall be performed in compliance with M.G.L. c. 132B and the regulations promulgated at 333 CMR 2.00, *Pesticide Board*. Any testing results indicating noncompliance shall be immediately reported to the Commission, who may refer any such result to the Massachusetts Department of Agriculture.
- (F) A Marijuana Cultivator selling or otherwise transferring marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160.
- (G) A Marijuana Cultivator shall comply with the requirements established by the National Fire Protection Association in Chapter 38 of NFPA 1 (2018), as applicable.
- (H) A Marijuana Cultivator may label Marijuana with the word “organic” only if all cultivation is consistent with U.S. Commission of Agriculture organic requirements at 7 CFR Part 205;
- (I) Soil for cultivation shall meet the U.S. Agency for Toxic Substances and Disease Registry’s Environmental Media Evaluation Guidelines for residential soil levels;
- (J) The cultivation process shall use best practices to limit contamination, including but not limited to mold, fungus, bacterial diseases, rot, pests, pesticides not in compliance with 500.120(E) for use on marijuana, mildew, and any other contaminant identified as posing potential harm.
- (K) Any application of plant nutrient to land used for the cultivation of marijuana shall comply with Chapter 262 of the Acts of 2012, as amended by Section 26 of Chapter 118 of the Acts of 2013, and 330 CMR 31.00, *Plant Nutrient Application Requirements For Agricultural Land And Land Not Used For Agricultural Purposes*.
- (L) A marijuana cultivator shall satisfy minimum energy efficiency and equipment standards established by the Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals, including those related to water quality and solid waste disposal, and to use additional best management practices as determined by the working group established under section 78(b) of chapter 55 of the acts of 2017 to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. If minimum standards or best management practices are not established by the time of an application for initial licensure, a marijuana cultivator must satisfy such standards or best management practices as a condition of license renewal, in addition to any the terms and conditions of any environmental permit regulating the licensed activity.

(M) In addition to the written operating policies required under 935 CMR 500.105(A), a marijuana cultivator shall maintain written policies and procedures for the cultivation, production or distribution of marijuana, as applicable, which shall include but not be limited to:

(1) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories in compliance with 935 CMR 105(H);

(2) A procedure for handling voluntary and mandatory recalls of marijuana. Such procedure shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective marijuana from the market, as well as any action undertaken to promote public health and safety;

(3) A procedure for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated marijuana is segregated from other marijuana and destroyed. This procedure shall provide for written documentation of the disposition of the marijuana;

(4) Policies and procedures for delivery;

(5) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts;

(6) Policies and procedures for the transfer, acquisition, or sale of marijuana between Marijuana Establishments.

500.130 Additional Operating Requirements for Marijuana Product Manufacturers

(A) In addition to the General Operational Requirements for Marijuana Establishments required under 935 CMR 500.105, Marijuana Product Manufacturers shall comply with Additional Operational Requirements required under 935 CMR 500.130.

(B) Production of edible marijuana products shall take place in compliance with the following:

(1) All edible marijuana products shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 500.000: *Good Manufacturing Practices for Food*, and with the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*; and

(2) Any marijuana product that is made to resemble a typical food or beverage product must be packaged and labelled as required by 935 CMR 500.105(F).

(C) A marijuana product manufacturer shall satisfy minimum energy efficiency and equipment standards established by the Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals, including those related to water quality and solid waste disposal, and to use additional best management practices as determined by the working group established under section 78(b) of chapter 55 of the acts of 2017 to reduce energy

and water usage, engage in energy conservation and mitigate other environmental impacts. If minimum standards or best management practices are not established by the time of an application for initial licensure, a marijuana product manufacturer shall satisfy such standards or best management practices as a condition of license renewal, in addition to any the terms and conditions of any environmental permit regulating the licensed activity.

(D) A Marijuana Product Manufacturer selling or otherwise transferring marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160.

(E) A marijuana product manufacturer shall comply with the requirements established by the National Fire Protection Association in Chapter 38 of NFPA 1 (2018), as applicable.

(F) In addition to the written operating policies required under 935 CMR 500.105(A), a marijuana product manufacturer shall maintain written policies and procedures for the production or distribution of marijuana and marijuana products, as applicable, which shall include but not be limited to:

(1) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories in compliance with 935 CMR 500.105(H);

(2) A procedure for handling voluntary and mandatory recalls of marijuana or marijuana products. Such procedure shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective marijuana or marijuana products from the market, as well as any action undertaken to promote public health and safety;

(3) A procedure for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated marijuana or marijuana products is segregated from other marijuana or marijuana products and destroyed. This procedure shall provide for written documentation of the disposition of the marijuana or marijuana products;

(4) Policies and procedures for delivery;

(5) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts;

(6) Policies and procedures for the transfer, acquisition, or sale of marijuana or marijuana products between Marijuana Establishments.

500.140 Additional Operational Requirements for Storefront and Delivery Retail Sale

(A) In addition to the General Operational Requirements for Marijuana Establishments required under 935 CMR 500.105, licensees engaged in storefront or delivery retail sales shall comply with Additional Operational Requirements for Storefront and Delivery Retail Sale under 935

CMR 500.140.

- (B) On-Premises Verification of Identification for Adult Use Only Locations: Upon entry into the premises of a marijuana retailer by an individual, a Marijuana Establishment Agent shall immediately inspect the individual's proof of identification and determine the individual's age. An individual shall not be admitted to the premises unless the marijuana retailer has verified that the individual is 21 years of age or older by an individual's proof of identification.
- (C) On-Premises Verification of Identification for Co-Located Adult Use and Medical Use Locations: Upon entry into the premises of a marijuana retailer that is co-located with a medical marijuana treatment center by an individual, a Marijuana Establishment Agent shall immediately inspect the individual's proof of identification and determine that the individual is 21 years of age or older. If the individual is under 21 years of age but 18 years of age or older, he or she shall not be admitted unless they produce an active Medical Use of Marijuana Program registration card issued by the Department of Public Health. If the individual is under 18 years of age, he or she shall not be admitted unless they produce an active Massachusetts Medical Use of Marijuana Program registration card and they are accompanied by a personal caregiver with an active Massachusetts Medical Use of Marijuana Program registration card. In addition to the Massachusetts Medical Use of Marijuana Program registration card, registered qualifying patients 18 years of age and older and personal caregivers must also produce proof of identification.
- (D) Verification of Identification for Delivery for Adult Use: To purchase marijuana or marijuana products for adult use through delivery, an individual must be able to produce proof of identification demonstrating that they are 21 years of age or older at the time of delivery and prior to the marijuana or marijuana products being removed from the transportation vehicle.
- (E) Limitation on Sales: A marijuana retailer may not sell more than one ounce of marijuana to a consumer at a time, except that not more than 5 grams of such marijuana may be in the form of marijuana concentrate.
- (F) Unauthorized Sales and Right to Refuse Sales
- (1) A Marijuana retailer shall refuse to sell marijuana to any consumer who is unable to produce valid proof of identification.
 - (2) A Marijuana retailer may refuse to sell marijuana or marijuana products dispense to a consumer if, in the opinion of the Marijuana Establishment Agent based on the information available to the agent at that time, the consumer or the public would be placed at risk.
 - (3) A retail marijuana store shall not sell to an individual more than one ounce of marijuana or its equivalent in marijuana products. One ounce of marijuana flower shall be equivalent to 8 grams of Marijuana Concentrate.

- (4) A Marijuana retailer, other than the holder of a Marijuana Social Consumption Operator License, shall not gift marijuana or marijuana products to a consumer contingent upon the sale of any other product.
- (5) A marijuana retailer is prohibited from selling marijuana products containing nicotine.
- (6) A marijuana retailer is prohibited from selling marijuana products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c.138.

(G) Recording Sales

- (1) A Marijuana retailer shall only utilize a point of sales (POS) system approved by the Commission, in consultation with the Department of Revenue.
- (2) A marijuana retailer may utilize a sales recording module approved by the Department of Revenue.
- (3) A marijuana retailer is prohibited from utilizing software or other methods to manipulate or alter sales data.
- (4) A marijuana retailer shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data. A marijuana retailer shall maintain records that it has performed the monthly analysis and product it upon request to the Commission. If a marijuana retailer determines that software has been installed for the purpose of manipulation or alteration of sales data or other methods have been utilized to manipulate or alter sales data:
 - (a) it shall immediately disclose the information to the Commission;
 - (b) it shall cooperate with the Commission in any investigation regarding manipulation or alteration of sales data; and
 - (c) take such other action directed by the Commission to comply with 935 CMR 500.105.
- (5) A marijuana retailer shall comply with 830 CMR 62C.25.1 and Department of Revenue Directive 16-1 regarding recordkeeping requirements.

(H) Physical Separation of Marijuana and Marijuana Products for Medical or Adult Use

A marijuana retailer that is co-located with a medical marijuana treatment center shall physically separate marijuana and marijuana products for medical use from marijuana for adult use within the sales area. There shall be a physical barrier that, in the opinion of the Commission, adequately separates sales of marijuana and marijuana products for medical use from marijuana for adult use within the sales area.

(I) Consumer Education. A Marijuana retailer shall make available educational materials about marijuana to consumers. A Marijuana retailer must have an adequate supply of up-to-date educational material available for distribution. Educational materials must be available in languages accessible to all patients served by the Marijuana Establishment, including for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Commission upon request. The educational material must include at least the following:

- (1) A warning that marijuana has not been analyzed or approved by FDA, that there is limited information on side effects, that there may be health risks associated with using marijuana, and that it should be kept away from children;
- (2) A warning that when under the influence of marijuana, driving is prohibited by M.G.L. c. 90 §24, and machinery should not be operated;
- (3) Information to assist in the selection of marijuana, describing the potential differing effects of various strains of marijuana, as well as various forms and routes of administration;
- (4) Materials offered to consumers to enable them to track the strains used and their associated effects;
- (5) Information describing proper dosage and titration for different routes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained;
- (6) A discussion of tolerance, dependence, and withdrawal;
- (7) Facts regarding substance abuse signs and symptoms, as well as referral information for substance abuse treatment programs;
- (8) A statement that consumers may not sell marijuana to any other individual; and
- (9) Any other information required by the Commission.

935 CMR 500.145: Additional Operating Requirements for Marijuana Social Consumption Establishments

In addition to the general operating requirements required under 935 CMR 500.105, a marijuana social consumption establishment shall comply with 935 CMR 500.145.

(A) The sale of marijuana and marijuana products for consumption on site shall take place in compliance with the following:

- (1) Marijuana and marijuana products may only be used by consumers on the premises who have demonstrated in compliance with 935 CMR 500.140(B) that they are over 21 years of age; and

(2) Products consumed on the premises of marijuana social consumption establishments shall be provided only in individual servings.

(B) Products consumed on the premises of marijuana social consumption retail establishments shall be purchased only from licensed Marijuana Establishments.

(C) All marijuana products must remain in the original packaging and may not be further processed, except social consumption establishments that are licensed as a restaurant (common victualler) pursuant to M.G.L. c.140, § 2, subject to any guidance developed by the Commission. All preparation of edibles must comply with the requirements under 935 CMR 500.105, 935 CMR 130, and 935 CMR 500.150.

(D) No social consumption establishment may serve or allow the consumption of alcohol in any form on the premises at the same time that the establishment serves or allows the consumption of marijuana in any form on the premises.

(E) In addition to the written operating policies required under 935 CMR 500.105(A), a marijuana social consumption retail establishment shall maintain written policies and procedures for the sale, distribution, and serving of marijuana and marijuana products which shall include but not be limited to:

- (1) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories in compliance with 935 CMR 500.110(H);
- (2) Procedures to ensure that marijuana purchased on site does not leave the premises, including disposal procedures;
- (3) A reasonable plan to assist patrons in acquiring taxi, ridesharing, or other third-party transportation services. Any such plan must, at a minimum, provide an area with electrical outlets and ports for charging common types of cell phones, identify designated pick-up areas near the premises for ridesharing or taxi services, and provide assistance in calling for taxi services for patrons who do not have access to ridesharing services;
- (4) Procedures to ensure that consumers are not over-served; and
- (5) Mixed Use Business Licensees shall also maintain procedures to ensure that on-site consumption is limited to an area accessible only to authorized staff 21 years of age and older and consumers 21 years of age and older.

(F) All sales of marijuana products under a social consumption operation license shall be taxed in compliance with the Act.

(G) No licensee shall permit the smoking of marijuana on the premises of a marijuana social consumption establishment before October 1, 2018.

935 CMR 500.150: Edible Marijuana Products

(A) Production of Edible MIPs

Production of edible MIPs shall take place in compliance with the following:

(1) Any edible MIP that is made to resemble a typical food or beverage product must be packaged and labeled as required by M.G.L. c. 94G, § 4(a½)(xxvi) and 935 CMR 500.105(E)-(F).

(2) The manufacture or sale of Edible MIPs in the following shapes is prohibited:

- (a) The distinct shape of a human, animal, or fruit; or
- (b) A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

(3) Edible MIPs that are geometric shapes and simply fruit-flavored are not considered fruit and are permissible.

(B) Sanitary Requirements

All licensed Marijuana Establishments shall comply with the following sanitary requirements:

(1) All edible MIPs shall be prepared, handled, and stored in compliance with the requirements in 935 CMR 500.105(C)

(C) Additional Labeling and Packaging Requirements for Edible MIPs

(1) In addition to the requirements set forth in M.G.L. c. 94G, § 4(a½)(xxvi) and 935 CMR 500.105(E)-(F), every marijuana retailer must ensure that the following information or statement is affixed to every container holding an Edible MIP:

(a) If the retail Edible MIP is perishable, a statement that the Edible MIP must be refrigerated.

(b) The date on which the Edible MIP was produced.

(c) A nutritional fact panel that must be based on the number of THC servings within the container.

(d) Information regarding the size of each serving for the product by milligrams, the total number of servings of marijuana in the product, and the total amount of active THC in the product by milligrams. For example: "The serving size of active THC in this product is X mg, this product contains X servings of marijuana, and the total amount of active THC in this product is X mg."

(2) Once a label with a use-by date has been affixed to a container holding an Edible MIP, a licensee shall not alter that date or affix a new label with a later use-by date.

(3) A marijuana product manufacturer must ensure that each single serving of an Edible MIP is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

(4) Each serving of an Edible MIP within a multi-serving package of Edible MIP's must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

(5) Each single serving of an Edible MIP contained in a packaged unit of multiple Edible MIPs shall be marked, stamped, or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates the package contains marijuana or a marijuana product.

(D) Dosing Limitations

A marijuana product manufacturer may not prepare, and a marijuana retailer may not deliver, sell or otherwise transfer an Edible MIP with potency levels exceeding the following, as tested by an independent marijuana testing facility licensed in accordance with M.G.L. c. 94G, § 15:

- (1) for a single serving of an Edible MIP, five milligrams of active tetrahydrocannabinol (THC); and
- (2) in a single package of multiple Edible MIPs to be eaten, swallowed, or otherwise ingested, not more than 20 servings or 100 milligrams of active THC.
- (3) The THC content must be homogenous, or evenly distributed throughout the Edible MIP.

500.160: Testing of Marijuana and Marijuana Products

- (A) Testing of Marijuana and Marijuana Products shall be performed by an independent testing laboratory in compliance with the *Protocol for Sampling and Analysis of Finished Medical Marijuana Products and Marijuana-Infused Products, as amended in November, 2016, published by the Department of Public Health. Testing of environmental media (e.g., soils, solid growing media, and water) shall be performed in compliance with the Protocol for Sampling and Analysis of Environmental Media for Massachusetts Registered Medical Marijuana Dispensaries* published by the Department of Public Health.
- (B) The Marijuana Establishment shall maintain the results of all testing for no less than one year;
- (C) A Marijuana Establishment shall have a written policy for responding to laboratory results that indicate contaminant levels are above acceptable limits established in the Department of Public Health protocols identified in 935 CMR 500.160. Any such policy shall include notifying the Commission within 72 hours of any laboratory testing results indicating that the contamination cannot be remediated and disposing of the production batch. The notification must be from both the Marijuana Establishment and the independent testing laboratory, separately and directly. The notification from the Marijuana Establishment must describe a proposed plan of action for both the destruction of the contaminated product and the assessment of the source of contamination.
- (D) All transportation of marijuana to and from independent testing laboratories providing marijuana testing services shall comply with 935 CMR 500.105(M).

- (E) All storage of marijuana at a laboratory providing marijuana testing services shall comply with 935 CMR 500.105(K); and
- (F) All excess marijuana must be disposed in compliance with 935 CMR 500.105(L), either by the independent testing laboratory returning excess marijuana to the source Marijuana Establishment for disposal or by the independent testing laboratory disposing of it directly.

500.170: Municipal Requirements

- (A) A Marijuana Establishment and other registered persons shall comply with all local rules, regulations, ordinances, and bylaws.
- (B) Nothing in 935 CMR 500.000 shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 935 CMR 500.000.

500.200: Martha's Vineyard and Nantucket

- (A) To the extent permitted by law, Marijuana Establishments operating from locations on Nantucket or Martha's Vineyard may operate in full compliance with 935 CMR 500.000, et. Seq.
- (B) If Marijuana Establishments operating from locations on Nantucket or Martha's Vineyard are prevented from operating in full compliance with 935 CMR 500 by operation of law, they not required to utilize independent testing laboratories until such time as an independent laboratory is located on the island where the Marijuana Establishment is located or the Marijuana Establishment can transport marijuana or marijuana product to the mainland of Massachusetts.
- (C) If Marijuana Establishments operating from locations on Nantucket or Martha's Vineyard are prevented from utilizing independent testing laboratories by operation of law, they are required to test marijuana and marijuana products in a manner that is not unreasonable impracticable but also adequately protects the public health in the opinion of the Commission. Such testing may include:
 - (1) a modified on-premises testing system approved by the Commission if the label on any marijuana or marijuana product so tested discloses in capital letters: WARNING: LIMITED TESTING FOR CONTAMINANTS AND PESTICIDES;
 - (2) a testing facility on Martha's Vineyard or Nantucket that does not meet the criteria for an independent testing laboratory, but is approved by the Commission for testing by Marijuana Establishments located on Martha's Vineyard or Nantucket; or
 - (3) Such other testing system approved by the Commission.

500.300: Inspections and Compliance

- (A) The Commission or its agents may inspect a Marijuana Establishment and affiliated vehicles at any time without prior notice in order to determine the Marijuana Establishment's compliance with the Act and 935 CMR 500.000. All areas of a Marijuana Establishment, all Marijuana Establishment Agents and activities, and all records are subject to such inspection. Acceptance of a license by a Marijuana Establishment constitutes consent for such inspection.
- (B) A Marijuana Establishment shall immediately upon request make available to the Commission all information that may be relevant to a Commission inspection, or an investigation of any incident or complaint.
- (C) A Marijuana Establishment shall make all reasonable efforts to facilitate the Commission's inspection, or investigation of any incident or complaint, including the taking of samples, photographs, video or other recordings by the Commission or its agents, and to facilitate the Commission's interviews of Marijuana Establishment Agents,
- (D) An inspection or other investigation may be made prior to the issuance of a license or renewal of registration. Additional inspections may be made whenever the Commission deems it necessary for the enforcement of the Act and 935 CMR 500.000.
- (E) During an inspection, the Commission may direct a Marijuana Establishment to test marijuana for contaminants as specified by the Commission, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of pesticides not approved for use on marijuana by the Massachusetts Department of Agricultural Resources.

500.301: Unannounced Purchase for Purpose of Testing (Secret Shopper Program)

- (A) Secret Shopper Program Authorized: The Commission, at any time and without prior notice, authorize an employee or other agent to pose as a customer and purchase any marijuana or marijuana products from any licensed Marijuana Establishment for the purpose of delivery to and testing at an Independent Testing Laboratory or Standards Laboratory. The Commission may authorize such purchase for purposes of testing for quality and compliance with the Act or 935 CMR 500.000. The purchasing employee or agent shall document the purchase, including the date, time, and place of purchase, type and amount of marijuana or marijuana-related product, and any other information required by the Commission.
- (B) Custody and Preservation of Purchases: The marijuana or marijuana products purchased as part of the program shall be securely stored during transport in a manner to prevent contamination or spoilage.
- (C) Contamination and Spoilage During Storage or Transport: Any contamination or spoilage of purchases under the Secret Shopper Program during storage or transport while under the control of the purchaser shall be promptly documented by the purchaser in writing and reported to the Commission. The Commission may authorize the disposal of the contaminated or spoiled

purchase, pursuant to the regulations concerning marijuana waste disposal under 935 CMR 500.105(L).

(D) Use of Secret Shopper Test Results: Results of testing conducted under Secret Shopper Program shall be promptly submitted to the Commission.

(1) All test results for marijuana or marijuana-related products shall be retained as part of the records for the licensed Marijuana Establishment from which the purchase originated.

(2) The licensed Marijuana Establishment may be notified of any test results determined by the Commission to be non-compliant and a time and manner determined by the Commission.

(3) After the Marijuana Establishment is notified of the test results, such results may be used by the Commission to take action on the license of the Marijuana Establishment pursuant to 935 CMR 500.500 or assess civil penalties pursuant to 935 CMR 500.500.

(4) Without notice to the Marijuana Establishment, the Commission may share such test results with any other regulatory agency acting within their jurisdiction.

(5) The Commission may elect to conduct further evaluation of the tested purchase or test results at any time for verification or for other purposes reasonably related to sanitation, public health or public safety.

500.302: Complaints Process

(A) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or consumers to notify the Commission of complaints regarding Marijuana Establishments or Marijuana Establishment Agents.

(B) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority.

500.310: Deficiency Statements

After an inspection in which a violation of 935 CMR 500.000 or the Act is observed or a violation is otherwise determined to have occurred, the Commission shall issue a Deficiency Statement citing every violation identified, a copy of which shall be left with or sent to the Marijuana Establishment.

500.320: Plan of Correction

- (A) A Marijuana Establishment shall submit to the Commission a written Plan of Correction for any violations cited in the Deficiency Statement issued pursuant to 935 CMR 500.310 within 10 business days after receipt of the Deficiency Statement.
- (B) Every Plan of Correction shall state, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance with 935 CMR 500.000 will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.
- (C) The Commission shall review the Plan of Correction for compliance with the requirements of 935 CMR 500.000 and the Act and shall notify the Marijuana Establishment of either the acceptance or rejection of the plan. An unacceptable plan must be amended and resubmitted within five business days after receipt of such notice.

500.330: Marijuana Establishment Registration: Limitation of Sales

- (A) If the Commission determines that a Marijuana Establishment does not substantially comply with applicable provisions of 935 CMR 500.000 or the Act, the Commission may order that the Marijuana Establishment shall not sell marijuana, after a date specified.
- (B) The Commission shall not make such a determination until a Marijuana Establishment has been notified that the Marijuana Establishment does not substantially comply with applicable provisions of 935 CMR 500.000 or the Act, that an order to limit sales is contemplated, and that the Marijuana Establishment has a reasonable opportunity to correct the deficiencies.
- (C) An order that a Marijuana Establishment shall not sell marijuana pursuant to 935 CMR 500.330(A) may be rescinded when the Commission finds that the Marijuana Establishment is in substantial compliance with the applicable provisions of 935 CMR 500.000.

500.340: Summary Cease and Desist Order and Quarantine Order

- (A) A summary cease and desist order or quarantine order may be imposed by the Commission prior to a hearing, in order immediately to stop or restrict operations by a Marijuana Establishment to protect the public health, safety, or welfare. The Commission may rescind or amend a summary cease and desist order or quarantine order.
- (B) If, based upon inspection, affidavits, or other evidence, the Commission determines that a Marijuana Establishment or the products produced or prepared by a Marijuana Establishment pose an immediate or serious threat to the public health, safety, or welfare, the Commission may:
 - (1) Issue a cease and desist order and/or quarantine order, requiring cessation or restriction of any or all Marijuana Establishment operations, and prohibiting the use of marijuana produced by that Marijuana Establishment; or

(2) Issue a cease and desist order placing restrictions on a Marijuana Establishment, to the extent necessary to avert a continued threat, pending final investigation results.

- (C) The requirements of the cease and desist order or the quarantine order shall remain in effect until the Commission rescinds or amends such requirements or until such time as the Commission takes final action on any related pending complaint and issues a final decision.

500.350: Summary Suspension Order

The Commission may summarily suspend any registration card or license issued pursuant to 935 CMR 500.000, pending further proceedings for denial of renewal or revocation of a registration or license, whenever the Commission finds that the continued licensure poses an imminent danger to the public health, safety, or welfare.

500.400: Marijuana Establishment: Grounds for Denial of Initial Application for License

Each of the following, in and of itself, constitutes full and adequate grounds for denying an initial application for a Marijuana Establishment license.

- (A) Information provided by the applicant was misleading, incorrect, false, or fraudulent;
- (B) The application indicates an inability to maintain and operate a Marijuana Establishment in compliance with the requirements of the Act, 935 CMR 500.105 and 935 CMR 500.110 based on the submission of information required by 935 CMR 500.100 (A) and (B);
- (C) The applicant has been determined to be either not responsible or suitable pursuant to any one or more of the factors listed in 935 CMR 500.901;
- (D) The applicant failed to complete the application process within the time required by the Commission;
- (E) Members or executives of the Marijuana Establishment were members or executives of a Marijuana Establishment that had its license revoked or denied renewal in the Commonwealth or another jurisdiction; or
- (F) Any other ground that serves the purposes of 935 CMR 500.000 or the Act.

500.415: Void Marijuana Establishment License

A Marijuana Establishment license is void if the Marijuana Establishment transfers its location without Commission approval or ceases to operate.

500.450: Marijuana Establishment License: Grounds for Denial of Renewal Applications and Revocation

Each of the following, in and of itself, constitutes full and adequate grounds for denying the renewal application for a Marijuana Establishment license or revoking the license of a Marijuana Establishment.

- (A) The Marijuana Establishment is not operational within the time projected in the license application or the time otherwise approved by the Commission.
- (B) Information provided by the Marijuana Establishment was materially inaccurate, incomplete, or fraudulent.
- (C) The Marijuana Establishment has failed to comply with any requirement of the Act or 935 CMR 500.000 or any applicable law or regulation, including laws and regulations of the Commonwealth relating to taxes, child support, workers' compensation, and professional and commercial insurance coverage.
- (D) The Marijuana Establishment has failed to submit a Plan of Correction as required or to implement a Plan of Correction as submitted pursuant to 935 CMR 500.320.
- (E) The Marijuana Establishment has assigned or attempted to assign its license to another entity without prior approval of the Commission.
- (F) There has been a lack of responsible operation of the Marijuana Establishment, as shown by, but not limited to, one or more of the following:
 - (1) Failure to maintain the Marijuana Establishment in a clean, orderly, and sanitary fashion;
 - (2) Permitting a Marijuana Establishment Agent to use a registration card belonging to a different person;
 - (3) Repeated sales or marijuana or marijuana products to individuals under 21 years of age, unless in each instance, the Marijuana Establishment Agent reasonably relied upon validly issued government identification in compliance with M.G.L. c.94G §9(b);
 - (4) Repeated failure to verify the age of an individual prior to permitting that individual on the premises of a Marijuana Establishment or making sales of marijuana or marijuana products to that individual; or
 - (5) Other incompetent or negligent operation.
- (G) The financial management of the Marijuana Establishment has resulted in the filing of a petition for bankruptcy or receivership related to the financial solvency of the Marijuana Establishment.

- (H) An executive or member of a Marijuana Establishment has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a Marijuana Establishment in another jurisdiction, including, but not limited to, failure to correct deficiencies, a limitation upon or a suspension, revocation, or refusal to grant or renew a registration or license to operate.
- (I) A Marijuana Establishment Agent has a history of criminal conduct as evidenced by any criminal proceedings against such individual or marijuana facilities in which such individual either owned shares of stock or served as a corporate officer, and which resulted in conviction, guilty plea, plea of nolo contendere, or admission to sufficient facts.
- (J) An executive or member of a Marijuana Establishment has committed, permitted, aided, or abetted any illegal practices in the operation of any Marijuana Establishment.
- (K) The Marijuana Establishment has failed to cooperate or give information to a law enforcement official acting within his or her lawful jurisdiction related to any matter arising out of conduct at any Marijuana Establishment.
- (L) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare of registered qualified patients, personal caregivers, or the public.
- (M) The conduct and/or practices of the Marijuana Establishment demonstrate a lack of responsibility or suitability as specified in 935 CMR 500.100.
- (N) Any other ground that serves the purposes of 935 CMR 500.000 or the Act.

500.500: Hearings and Appeals of Actions on Licenses

(A) Notice of Violations. The Commission shall send written notice of the alleged violation(s) to a licensee. The written notice shall provide the licensee with a statement of the grounds for the action and of the right to request a hearing and the time-period for such request.

(B) Hearings.

- (1) Generally. All hearings held pursuant to 935 CMR 500.500 shall be conducted in accordance with chapter 30A of the General Laws and 801 CMR 1.02: Informal/Fair Hearing Rules and shall be conducted by a Hearing Officer determined by the Commission.
- (2) Hearings on Summary Cease and Desist Orders or Quarantine Orders.
 - (a) Upon written request filed with the Commission a registrant shall be afforded a hearing.
 - (b) A request for a hearing shall be filed no later than 28 calendar days after the effective date of a summary cease and desist order or quarantine order issued pursuant to 935 CMR 500.340.
 - (c) For the order to be sustained the Commission must prove by a preponderance of the evidence that there existed immediately prior to, or

- at the time of the order, an immediate or serious threat to the public health, safety, or welfare.
- (3) Hearings on Summary Suspension Orders.
- (a) Upon written request filed with the Commission a registrant shall be afforded a hearing.
 - (b) A request for a hearing shall be filed no later than 14 calendar days after the effective date of a summary suspension order issued pursuant to 935 CMR 500.350.
 - (c) For the order to be sustained the Commission must prove by a preponderance of the evidence that there existed immediately prior to, or at the time of the suspension, an imminent danger to the public health, safety, or welfare.
- (4) Hearings on Other Actions. Notwithstanding 935 CMR 500.500(B)(2) and (3), for all other actions adverse to a licensee or registrant the Commission shall provide written notice and shall provide a hearing, if a hearing is requested in writing, within 21 calendar days after the effective date stated in the notice, prior to:
- (a) Denying a renewal application for a registration card;
 - (b) Revoking a registration card for a Marijuana Establishment Agent or Marijuana Related-Business Agent;
 - (c) Denying a renewal application of a Marijuana Establishment;
 - (d) Revoking the license of a Marijuana Establishment;
 - (e) Limiting sales of marijuana by a Marijuana Establishment; or
 - (f) Imposition of a fine.
- (5) Final Decision. The Commission shall bear the burden of proving by a preponderance of the evidence the basis for the action taken. All decisions of the Hearing Officer shall be in writing. The decision of the Hearing Officer shall be considered to be a final decision by the Commission.
- (6) Appeals. Any person aggrieved by a determination of the Commission may appeal the decision to the Superior Court in accordance with M.G. L. c. 30A, §14.
- (7) Timeliness. The right to a hearing shall be waived if a hearing permitted under 935 CMR 500.500(B) is not requested within the specified time.

500.650: Non-Conflict with Other Law

(A) Nothing in 935 CMR 500.000 shall be construed to limit the applicability of other law as it pertains to the rights of landlords, employers, law enforcement authorities, or regulatory agencies, except as otherwise provided herein.

(B) Nothing in 935 CMR 500.000:

- (1) Allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana;

- (2) Requires the violation of federal law or purports to give immunity under federal law; or
- (3) Poses an obstacle to federal enforcement of federal law.

500.700: Waivers

The Commission may waive applicability of one or more of the requirements imposed by 935 CMR 500.000 upon finding that:

- (A) Compliance would cause undue hardship to the requestor;
- (B) If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
- (C) If applicable, the requestor has instituted compensating features that are acceptable to the Commission; and
- (D) The requestor provides to the Commission written documentation, in a form and manner determined by the Commission, supporting its request for a waiver.

500.750: Notice

- (A) The Commission shall maintain a list of individuals or entities that request notice.
- (B) Notice shall be provided, in a time and manner to be determined by the Commission, to those individuals or entities on the list in advance for:
 - (1) Meetings of the Cannabis Control Commission;
 - (2) Meetings of the Cannabis Advisory Board; and
 - (3) Other events determined by the Commission, in its discretion.
- (C) The individual or entity is responsible for ensuring that the information provided to the Commission for the purpose of receiving notice remains current.

500.800: Severability

The provisions of 935 CMR 500.000 are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

500.900: Background Check Suitability Standard for Licensure and Registration

500.901: Suitability Standard for Licensure

- A. In accordance with M.G.L. c. 94G, §5, the Commission is prohibited from licensing a Marijuana Establishment where an individual who is a controlling person has been convicted of a felony or offense in another state that would be a felony in the Commonwealth, except a prior conviction solely for a marijuana offense or solely for a

violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.

B. For purposes of determining suitability based on Background Checks in accordance with 935 CMR 500.100(A)-(B):

1. All conditions, offenses, and violations are construed to include Massachusetts law or like/similar law(s) of another state, the United States, a military, territorial or Native American tribal authority, or any other jurisdiction. All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation. Juvenile dispositions shall not be considered as a factor for determining suitability.
2. Where applicable, all look back periods for criminal conditions, offenses, and violations included in Table A commence upon the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence upon release from incarceration.
3. A Presumptive Negative Suitability Determination may issue if reliable information demonstrates that the applicant for licensure or licensee acted in a manner that resulted in jeopardy to the health, safety, or welfare of any person, or that an applicant for licensure or licensee's actions are not consistent with the public interest.
4. There shall be a Suitability Review Committee appointed by the Executive Director of the Commission for the purpose of: (a) considering whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Table A renders the subject unsuitable for licensure; and (b) to consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.19. All reviews shall be on the basis of written information and evidence.
 - i. Reviews under 935 CMR 500.901(B)(4)(a) shall be instituted by the Suitability Review Committee upon notification by designated investigative services staff or contractors of the need for a review.
 - ii. Reviews under 935 CMR 500.901(B)(4)(b) for appeals of determinations of unsuitability based on claims of erroneous information obtained as part of the background check shall be accompanied by the appropriate form as determined by the Commission and shall be filed no later than 10 business days following receipt of the negative determination. Requests received after 10 business days shall be considered at the discretion of the Suitability Review Committee.
5. The Suitability Review Committee shall advise the Executive Director who shall make a recommendation to the full Commission, which may adopt the

recommendation. A determination of the suitability for licensure where there is a Presumptive Negative Suitability Determination under Table A shall be on the basis of the following factors:

- i. Time since the offense or incident;
- ii. Age of the subject at the time of the offense or incident;
- iii. Nature and specific circumstances of the offense or incident;
- iv. Sentence imposed and length, if any, of incarceration, if criminal;
- v. Penalty or discipline imposed, including damages awarded, if civil or administrative;
- vi. Relationship of offense or incident to nature of work to be performed;
- vii. Number of offenses or incidents;
- viii. Whether offenses or incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered;
- ix. If criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses, and the subject's conduct and experience since the time of the offense, including but not limited to professional or educational certifications obtained; and
- x. Any other relevant information, including information submitted by the subject to the Suitability Review Committee or requested by the Commission.

Table A: Marijuana Establishment Agent Licensees. Shall apply solely to Marijuana Establishment Agents listed on the application for licensure in accordance with 935 CMR 500.100(A)(1) and (B)(2).

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application.)	Open/Unresolved Criminal Proceedings: any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of section 34 of chapter 94C of the General Laws.	Mandatory Disqualification
	Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or other jurisdictions): an outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 et. seq. or a similar statute or regulations in another jurisdiction that has either (a) remained unresolved for a period of six (6) months or more; or (b) the nature of which would result in a determination of unsuitability for licensure.	Mandatory Disqualification
	Outstanding or unresolved criminal warrants	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))
Indefinite	Sex Offender Registration: required to register as a sex offender in any jurisdiction.	Mandatory Disqualification
	Felony convictions in Massachusetts or other jurisdictions , including but not limited to: Felony weapons violation involving narcotics; Felony violence against a person; Felony involving theft or fraud;	Mandatory Disqualification

Indefinite (cont'd)	Felony drug, excluding conviction under M.G.L. c. 94C, §34	
	Conviction or CWOFF for any distribution of a controlled substance to a minor	Mandatory Disqualification
	Non-felony weapons violations, including firearms, involving narcotics	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))
	Firearms crimes	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))
Preceding Five (5) Years	Multiple criminal complaints during the five (5) years immediately preceding the application for licensure that separately may not result in a negative determination of suitability but may, if taken together and tending to show a pattern of harmful behavior, result in a negative determination of suitability depending on the type and severity of the complaints.	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))

500.902: Suitability Standard for Registration as a Marijuana Establishment Agent

- A. The regulation included at 935 CMR 500.902 shall apply to Marijuana Establishment Agents or applicants in their capacity as employees or volunteers for a Marijuana Establishment licensed pursuant to 935 CMR 500.100 and shall be used by the Marijuana Establishment executive registered with the Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04(2) and the Commission for purposes of determining suitability for registration as a Marijuana Establishment Agent with the licensee.
- B. For purposes of determining suitability based on Background Checks performed in accordance with 935 CMR 500.030(A):
 1. All conditions, offenses, and violations are construed to include Massachusetts law or like/similar law(s) of another state, the United States, a military, territorial or Native American tribal authority, or any other jurisdiction. All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation. Juvenile dispositions shall not be considered as a factor for determining suitability.
 2. Where applicable, all look back periods for criminal conditions, offenses, and violations included in Tables B-D commence upon the date of disposition;

provided, however, that if disposition results in incarceration in any institution, the look back period shall commence upon release from incarceration.

3. A Presumptive Negative Suitability Determination may issue if reliable information demonstrates that the applicant for registration or registrant acted in a manner that resulted in jeopardy to the health, safety, or welfare of any person, or that an applicant for licensure or licensee's actions are not consistent with the public interest.
4. There shall be a Suitability Review Committee appointed by the Executive Director of the Commission for the purpose of: (a) considering whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Tables B-E renders the subject unsuitable for registration regardless of the determination of the licensee; and (b) to consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17-2.18. All reviews shall be on the basis of written information and evidence.
 - i. Reviews under 935 CMR 500.902(B)(4)(a) shall be instituted by the Suitability Review Committee upon notification by designated investigative services staff or contractors of the need for a review.
 - ii. Reviews under 935 CMR 500.902(B)(4)(b) for appeals of determinations of unsuitability based on claims of erroneous information obtained as part of the background check shall be accompanied by the appropriate form as determined by the Commission and shall be filed no later than 10 business days following receipt of the negative determination. Requests received after 10 business days shall be considered at the discretion of the Suitability Review Committee.
5. The Suitability Review Committee shall advise the Executive Director who shall make a recommendation to the full Commission, which may adopt the recommendation. A determination of the suitability for registration where there is a Presumptive Negative Suitability Determination under Tables B-D shall be on the basis of the following factors:
 - i. Time since the offense or incident;
 - ii. Age of the subject at the time of the offense or incident;
 - iii. Nature and specific circumstances of the offense or incident;
 - iv. Sentence imposed and length, if any, of incarceration, if criminal;
 - v. Penalty or discipline imposed, including damages awarded, if civil or administrative;
 - vi. Relationship of offense or incident to nature of work to be performed;
 - vii. Number of offenses or incidents;

- viii. Whether offenses of incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered;
- ix. If criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses, and the subject's conduct and experience since the time of the offense, including but not limited to professional or educational certifications obtained; and
- x. Any other relevant information, including information submitted by the subject to the Suitability Review Committee or requested by the Commission.

Table B: Retail and Transporter Marijuana Establishment Agents. Shall apply solely to applicants for registration as a Marijuana Establishment Agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Retail Establishment under 935 CMR 500.015(E) or as a Marijuana Transporter under 935 CMR 500.015(H).

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application.)	Open/Unresolved Criminal Proceedings: any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of section 34 of chapter 94C of the General Laws.	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))
	Open occupational license cases	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))
	Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or other jurisdictions): an outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 et. seq. or a similar statute or regulations in another jurisdiction that has either (a) remained unresolved for a period of six (6) months or	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))

Present (cont'd)	more; or (b) the nature of which would result in a determination of unsuitability for registration.	
Indefinite	Sex Offense: Felony conviction for a “sex offense” as defined in M.G.L. c. 6, §178C and M.G. L. c. 127, §133E or like offenses in other jurisdictions	Mandatory Disqualification
	Conviction or CWOFF for any distribution of a controlled substance to a minor	Mandatory Disqualification
	Failure to register as a sex offender in any jurisdiction	Mandatory Disqualification
Preceding Five (5) Years	Felony convictions in Massachusetts or other jurisdictions for crimes of violence against a person or crimes of dishonesty or fraud	Mandatory Disqualification
Preceding Seven (7) Years	CWOFF for crimes of violence, fraud	Presumptive Negative Suitability Determination (see 935 CMR 500.901(B)(3)-(5))

Table C: Product Manufacturer Marijuana Establishment Agents. Shall apply solely to applicants for registration as a Marijuana Establishment Agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Manufacturing Marijuana Establishment under 935 CMR 500.015(D).

<u>Time Period</u>	<u>Precipitating Issue</u>	<u>Result</u>
Present (during time from start of application process through action on application.)	Open/Unresolved Criminal Proceedings: any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of section 34 of chapter 94C of the General Laws.	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
	Open occupational license cases	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
	Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or other jurisdictions): an outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 et. seq. or a similar statute or regulations in another jurisdiction that has either (a) remained unresolved for a period of six (6) months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
Indefinite	Conviction or CWOFF for any distribution of a controlled substance to a minor	Mandatory Disqualification
	Failure to register as a sex offender in any jurisdiction	Mandatory Disqualification
Preceding Five (5) Years	Felony convictions in Massachusetts or other jurisdictions for crimes of violence against a person or crimes of dishonesty or fraud	Mandatory Disqualification

Preceding Seven (7) Years	CWOF for crimes of violence, fraud	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
Preceding Ten (10) Years	Sex Offense: Felony conviction for a “sex offense” as defined in M.G.L. c. 6, §178C and M.G. L. c. 127, §133E or like offenses in other jurisdictions	Mandatory Disqualification

DRAFT AS APPROVED 12-21-17

Table D: Cultivation and Distribution Marijuana Establishment Agents. Shall apply solely to applicants for registration as a Marijuana Establishment Agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Marijuana Cultivator or Craft Marijuana Cooperative under 935 CMR 500.015(B)-(C).

<u>Time Period</u>	<u>Precipitating Issue</u>	<u>Result</u>
Present (during time from start of application process through action on application.)	Open/Unresolved Criminal Proceedings: any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of section 34 of chapter 94C of the General Laws.	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
	Open occupational license cases	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
	Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or other jurisdictions): an outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 et. seq. or a similar statute or regulations in another jurisdiction that has either (a) remained unresolved for a period of six (6) months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
Indefinite	Conviction or CWOFF for any distribution of a controlled substance to a minor	Mandatory Disqualification
	Felony convictions in Massachusetts or other jurisdictions for crimes of violence against a person	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
Preceding Three (3) Years	Felony convictions in Massachusetts or other jurisdictions for crimes of dishonesty or fraud	Mandatory Disqualification

500.903: Suitability Standard for Registration as a Laboratory Agent

- A. The regulation included at 935 CMR 500.903 shall apply to Laboratory Agents in their capacity as employees or volunteers for an Independent Testing Laboratory licensed pursuant to 935 CMR 500.050 and shall be used by the Independent Testing Laboratory executive registered with the Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04(2) and the Commission for purposes of determining suitability for registration as a Laboratory Agent with the licensee.
- B. In accordance with M.G.L. c. 94G, §5, the Commission is prohibited from issuing a registration to a Laboratory Agent who has been convicted of a felony drug offense in the Commonwealth or in another state that would be a felony drug offense in the Commonwealth.
- C. For purposes of determining suitability based on Background Checks performed in accordance with 935 CMR 500.903:
 1. All conditions, offenses, and violations are construed to include Massachusetts law or like/similar law(s) of another state, the United States, a military, territorial or Native American tribal authority, or any other jurisdiction. All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation. Juvenile dispositions shall not be considered as a factor for determining suitability.
 2. Where applicable, all look back periods for criminal conditions, offenses, and violations included in Table E commences upon the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence upon release from incarceration.
 3. A Presumptive Negative Suitability Determination may issue if reliable information demonstrates that the applicant for registration or registrant acted in a manner that resulted in jeopardy to the health, safety, or welfare of any person, or that an applicant for licensure or licensee's actions are not consistent with the public interest.
 4. There shall be a Suitability Review Committee appointed by the Executive Director of the Commission for the purpose of: (a) considering whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Table E renders the subject unsuitable for registration regardless of the determination of the licensee; and (b) to consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17-2.18. All reviews shall be on the basis of written information and evidence.

- i. Reviews under 935 CMR 500.903(B)(5)(a) shall be instituted by the Suitability Review Committee upon notification by designated investigative services staff or contractors of the need for a review.
 - ii. Reviews under 935 CMR 500.902(B)(5)(b) for appeals of determinations of unsuitability based on claims of erroneous information obtained as part of the background check shall be accompanied by the appropriate form as determined by the Commission and shall be filed no later than 10 business days following receipt of the negative determination. Requests received after 10 business days shall be considered at the discretion of the Suitability Review Committee.
5. The Suitability Review Committee shall advise the Executive Director who shall make a recommendation to the full Commission, which may adopt the recommendation. A determination of the suitability for registration where there is a Presumptive Negative Suitability Determination under Table E shall be on the basis of the following factors:
- i. Time since the offense or incident;
 - ii. Age of the subject at the time of the offense or incident;
 - iii. Nature and specific circumstances of the offense or incident;
 - iv. Sentence imposed and length, if any, of incarceration, if criminal;
 - v. Penalty or discipline imposed, including damages awarded, if civil or administrative;
 - vi. Relationship of offense or incident to nature of work to be performed;
 - vii. Number of offenses or incidents;
 - viii. Whether offenses or incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered;
 - ix. If criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses, and the subject's conduct and experience since the time of the offense, including but not limited to professional or educational certifications obtained; and
 - x. Any other relevant information, including information submitted by the subject to the Suitability Review Committee or requested by the Commission.

Table E: Registration as a Laboratory Agent. Shall apply solely to applicants for registration as a Laboratory Agent in accordance with 935 CMR 500.903 at a Marijuana Establishment licensed pursuant to 935 CMR 500.050.

<u>Time Period</u>	<u>Precipitating Issue</u>	<u>Result</u>
Present (during time from start of application process through action on application.)	Open/Unresolved Criminal Proceedings: any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in another jurisdiction.	Mandatory Disqualification
	Open occupational license cases	Mandatory Disqualification
	Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or other jurisdictions): an outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 et. seq. or a similar statute or regulations in another jurisdiction that has either (a) remained unresolved for a period of six (6) months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
Indefinite	Felony drug convictions in Massachusetts or other jurisdictions	Mandatory Disqualification
	Failure to register as a sex offender	Mandatory Disqualification
Preceding Five (5) Years	Felony convictions or CWOFF in Massachusetts or other jurisdictions for crimes of violence against a person	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))
Preceding Seven (7) Years	Felony convictions or CWOFF in Massachusetts or other jurisdictions for crimes of dishonesty or fraud	Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.901(B)(3)-(5))

REGULATORY AUTHORITY

935 CMR 500.000: St. 2016, c. 334, *The Regulation and Taxation of Marijuana Act*, as amended by St. 2017, c.55, *An Act To Ensure Safe Access To Marijuana*.

