

# **DRAFT**

## **BOSTON CANNABIS BOARD** **RULES AND REGULATIONS**

**Message from the Boston Cannabis Board (the “BCB”):** These draft rules and regulations are intended as a framework for public comment and discussion. The goal of promulgating rules and regulations is to provide a clear, predictable, and transparent process for both applicants and other interested and impacted parties. The BCB looks forward to a robust discussion in the coming weeks as these draft rules and regulations develop based on public comment. Any questions regarding these draft rules and regulations or the process should be directed to [cannabisboard@boston.gov](mailto:cannabisboard@boston.gov) or (617) 635-4170.

### **Introduction/Role of the Boston Cannabis Board**

Established pursuant to an ordinance mandating equitable regulation of the cannabis industry in the City of Boston (the “Ordinance”) and an executive order relative to the composition of the Boston Cannabis Board (the “Order”), the Boston Cannabis Board (the “BCB”) is charged with granting licenses (the “License” or “Licenses”) to applicants (the “Applicant” or “Applicants”) for a cannabis establishment within the City of Boston while ensuring Licenses are granted in such a manner so as to ensure equity, quality, and community safety. Specifically, the BCB is the siting authority for such establishments evaluating the proposed time, place, and manner in which these establishments are approved, open, and operate.

The BCB aims to issue Licenses in a way that ensures equity both in the distribution of Licenses among qualified applicants in those communities that have been disproportionately impacted by the prior legal prohibition of cannabis and enforcement of the same, as well as to ensure that Licenses are equitably sited throughout the City of Boston. The BCB is committed to providing a clear, predictable, and transparent process for businesses seeking a License.

The BCB is the regulatory authority at the local level overseeing the operations of establishments exercising a License (the “Licensee” or “Licensees”) and holding disciplinary hearings regarding any alleged violation of any City, state, or federal law, rule, or regulation occurring at the licensed premise (the “Licensed Premise”).

The BCB does not have the authority or ability to negotiate host community agreements. These agreements are negotiated between the Office of Emerging Industries and the respective Licensee and will incorporate, among other items, information and conditions contained in the

written decision of the BCB granting a License. No Applicant may enter into a host community agreement without the approval of a License by the BCB.

The Cannabis Control Commission (“CCC”) is the state authority charged with approving applicants to operate a cannabis establishment in the Commonwealth pursuant to state law. As such, the CCC considers all cannabis establishment applications under a thorough and diligent review process. The municipal review and approval conducted by the BCB is one of the many pieces that comprise a successful application for licensure by the CCC. Thus, while review provided by the BCB serves a vital role in ensuring an equitable, quality, and safe cannabis industry in our communities, the BCB is not the sole authority to grant permission to cannabis establishments to open for business in the City and approval by the BCB does not guarantee the success of an application to the CCC.

**These rules and regulations (the “Rules and Regulations”) may be amended from time to time by the BCB pursuant to all applicable City, state, and federal requirements.**

## **Index**

To be completed.

## **Definitions**

Unless otherwise defined in these Rules and Regulations any capitalized term shall have the meaning ascribed to it by the CCC.

## **Section 1: General Rules of the BCB**

### **1.00: Overview of the BCB**

- A. **Composition:** The BCB is an independent board appointed by the Mayor and consisting of the Chairman and four (4) commissioners each having a term of two (2) years. Of the five (5) members of the BCB, the following areas of experience and expertise must be represented: public health policy; creating economic development strategies and minority business development strategies within under-resourced communities; experience working in public safety; and the Chairman of the Licensing Board for the City of Boston.
- B. **Staff:** The BCB is staffed by the Executive Secretary who shall not be a voting member of the BCB and shall provide legal and administrative support to the members of the

BCB. The Executive Secretary shall serve as the keeper of the record, facilitate hearings before the BCB, prepare written decisions on applications or disciplinary decisions to be executed by the members, and provide additional support as necessary. Additional staff shall also be provided to assist the BCB in its duties.

### **1.01: Hearing Schedule**

- A. **Transactional Hearings:** The BCB shall meet on the second and third Wednesday of the month. Hearings conducted on the second Wednesday of the month are for new applications and proposed changes to existing Licensees. Hearings conducted on the third Wednesday of the month are the BCB's voting hearing on items heard the prior Wednesday. Should there be no items to be heard by the BCB in a particular month hearings may be cancelled at the BCB's discretion.\*
  
- B. **Disciplinary Hearings:** The BCB shall meet on Tuesdays as necessary to hold a hearing on any pending Licensed Premise inspection notice or other disciplinary matter regarding an existing Licensee that is in violation of any of these Rules or Regulations, terms or conditions of its existing License, terms and conditions of the HCA, and any other City, state, or federal law, rule, or regulation. Such matters will be voted on by the BCB at the following regularly scheduled voting hearing.\*

\*The hearing schedule may be amended at the discretion of the BCB. All hearings and notices are subject to open meeting law requirements.

### **1.02: Application and Hearing Process**

- A. **Application Process:** Upon the filing of a complete application with the BCB, said application shall be time stamped and scheduled for a public hearing to be held no more than thirty (30) days from the receipt of said application. The BCB shall not accept a partial application. In order to provide clarity and predictability applications will be scheduled for a hearing in the order in which they are received. Notwithstanding the foregoing, should the BCB receive a complete application from a non-equity applicant and any hearing on said non-equity application could result in a violation of the 1:1 equity to non-equity ratio mandated by the Ordinance, a hearing on said non-equity application shall not be scheduled until it can be done without exceeding the required ratio.

In order for an application to be placed on the BCB's hearing docket for the second Wednesday of the month, a complete application must be filed with the BCB by the last business day of the preceding month.

#### B. Application Requirements

This section to be completed pursuant to the Ordinance.

- C. **Disclosure of Direct and Indirect Beneficial Interest Holders:** All direct or indirect beneficial interest holders that exceed ten percent (10%) beneficial interest in a proposed Licensee entity must be disclosed in full to the BCB ~~regardless of percentage of direct or indirect beneficial interest or operational control~~. Failure to adhere to the foregoing may result in disciplinary action including, but not limited to, the suspension or revocation of any License issued by the BCB and ineligibility to apply for a License in the future. The foregoing applies to any and all information submitted with the Application and any supplemental information requested by the BCB or any City department including that related to the certification of an equity applicant.

### 1.03: Evaluation of New Applications

- A. **Criteria:** An application for a License shall be evaluated based on the criteria established in Section 8-13.8 of the Ordinance. Each member of the BCB will complete a score sheet (the "Score Sheet") for each application based on the application and the presentation before the BCB at the public hearing. The form of the Score Sheet shall be agreed upon by all active members of the BCB and such form may be amended from time to time. Each Score Sheet will become a part of the public record. Pursuant to Section 8-13.8 of the Ordinance, Applicants shall comply with the laws and regulations of the Commonwealth of Massachusetts and the City of Boston, including but not limited to any laws and regulations relating to cannabis. In the event the Applicant fails to meet any of the rules and regulations relating to cannabis, such Application shall not be evaluated by the BCB.
- B. **Minimum Score:** A minimum score of fifty percent (50%) of evaluation criteria items two (2) through five (5) will be required in order for the BCB to vote to approve or conditionally approve an application.
- C. **Deliberations:** All deliberations of the BCB shall be conducted in accordance with the open meeting law at the BCB's monthly Voting Hearing on the record.

#### **1.04: Equity Program**

- A. **Ratio of Certified Equity Licensees to Non-Equity Licensees:** Pursuant to Section 8-13.3 of the Ordinance, the “City of Boston shall maintain an equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants.” In order to ensure the 1:1 ratio of certified equity Licensees to non-equity Licensees, the BCB shall not hold a hearing on any application for a License that, upon the granting of the License, would result in more non-equity than equity Licensees. This may result in complete applications filed by non-equity applicants not being scheduled for a hearing until such time as a certified equity applicant may be scheduled on the same hearing docket. Such non-equity applicants will be placed on a waiting list and will be heard in the order in which the complete application was filed with the BCB pursuant to the conditions contained herein. Notwithstanding anything herein to the contrary, Existing cannabis establishments, and those applicants who filed prior to the effective date of the Ordinance (February 1, 2019), shall be exempted from this requirement.
- B. **Certification of an Equity Applicant:** In order to ensure compliance with Section 8-13.3 of the Ordinance, the City of Boston Office of Economic Development (“OED”) shall review the proposed direct and indirect beneficial interest holders of any proposed Licensee entity to determine whether the entity qualifies as an equity applicant. Prior to a hearing before the BCB, a designated staff member of OED shall certify in writing whether the applicant qualifies as an equity applicant. The designated staff member shall also testify at the hearing before the BCB regarding the applicant’s equity status. Such testimony and written certification shall be incorporated into the public record.

#### **1.05: Buffer Zone**

- A. **Overview:** The Boston Zoning Code Article 8 specifically states that “any cannabis establishment shall be sited at least one half mile or 2,640 feet from another existing cannabis establishment.” For purposes of the licensure of cannabis establishments in the City of Boston this creates a buffer zone between cannabis establishments (the “Buffer Zone”).
- B. **Definitions:** “Existing cannabis establishment” is defined as a Licensee which has been granted a License by the BCB. This includes a License to operate a retail facility, a product manufacturer facility, a cultivation facility, an independent testing facility, or any other type of cannabis establishment approved and regulated by the BCB and CCC. Each establishment that holds a valid Host Community Agreement with the City of Boston that was executed prior to the first hearing of the BCB and that has secured the necessary

zoning relief for the underlying use shall be considered an existing cannabis establishment for purposes of the Buffer Zone.

- C. **Applications within the Buffer Zone:** The BCB may, in its discretion, accept and hold a hearing on a complete application in accordance with these Rules and Regulations regardless of whether a Buffer Zone conflict exists. Should the BCB vote to grant a License to an applicant with a Buffer Zone conflict, the grant of the License shall be conditional and shall require the applicant obtain a variance from the Zoning Board of Appeals within one (1) year of the issuance of the BCB's written decision. Should the applicant fail to obtain a variance within one (1) year, the conditional grant of a License shall be rescinded at the BCB's discretion.
- D. **Additional Requirements:** Any applicant for a License with a Buffer Zone conflict must provide the following to the BCB with its complete application in order to be scheduled for a hearing:
- ~~Letter of support from the District City Councilor or the Mayor's Office of Neighborhood Services stating support for the applicant and acknowledging the Buffer Zone conflict.~~
  - ~~Letter of support from each direct abutter of the proposed location as recorded with the City's assessing department stating support for the applicant and acknowledging the Buffer Zone conflict.~~
  - Applicant's statement explaining in particularity why the applicant should be granted a conditional License despite the Buffer Zone conflict addressing the following:
    - Special circumstances or conditions that apply to the proposed location;
    - Reasons of practical difficulty and substantial hardship explaining why the Buffer Zone conflict should not prevent the BCB from granting a conditional License;
    - How the BCB's grant of a conditional License would be in harmony with the intent of the Boston Zoning Code provision establishing the Buffer Zone; and
    - How the BCB's grant of a conditional License would not negatively impact the surrounding neighborhood.
- E. **School Zone:** The process established herein for an applicant for a License with a Buffer Zone conflict does not apply to the statutory prohibition of a cannabis establishment within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades one (1) through twelve (12), measured from property line to property line.

## **Section 2: General Requirements of a Cannabis Licensee**

**2.00: Non-Transferability:** No License issued by the BCB may be transferred nor may any percentage of direct or indirect beneficial interest in a License or the Licensee entity be transferred, except in either case as approved by the BCB. In the event such transfer does not affect the status of an Equity Applicant, BCB approval shall not be unreasonably withheld. Failure to adhere to this provision may result in disciplinary action including but not limited to the suspension or revocation of the License and the ineligibility to apply for a future License.

**2.01: Requirement of a Host Community Agreement:** No Licensee shall be permitted to continue operations upon the expiration or revocation of the host community agreement between the Licensee and the City of Boston.

**2.02: Annual Fee:** Each Licensee shall pay an annual fee in the amount equal to that of the annual fee for a Retail Package Store All-Alcoholic Beverages License.

**2.03: Annual Renewal:** The License issued by the BCB shall expire annually on December 31st at 11:59pm. The License must be renewed with the BCB by the last business day of the preceding October. In order to renew the License, the Licensee must file the completed application on the form to be prescribed by the BCB which shall include an attestation signed under the pains and penalties of perjury stating that there has been no change to the previously disclosed and approved direct and indirect beneficial interest holders and that the Licensee has the legal right to occupy the Licensed Premise.

**2.04: Posting of License:** The License issued by the BCB must be posted conspicuously within the Licensed Premise in a location easily viewed by the public.

**2.05: Posting of Other Licenses and Permits:** All other licenses, permits, and certificates regarding the Licensed Premise shall be conspicuously posted within the Licensed Premise in a location easily viewed by the public including but not limited to the Certificate of Occupancy and Fire Assembly Permit, as applicable.

**2.06: Rules and Regulations:** The Licensee shall ensure that a copy of these Rules and Regulations is kept on the Licensed Premise at all times and is available as a reference for employees. The Licensee is responsible for ensuring that all employees, whether directly or indirectly employed by the Licensee, and volunteers read, understand, and comply with these Rules and Regulations.

### **Section 3: Operational Requirements**

**3.00: Security and Operations Plan:** Prior to commencing operations, the Licensee shall submit to the BCB in writing a security and operations plan (the “Security and Operations Plan”) for its review and approval. The Licensee shall not commence operations prior to receiving the written approval of the BCB of the Security and Operations Plan. A copy of the Security and Operations Plan must be kept at the Licensed Premise at all times. It is the responsibility of the Licensee to ensure that all employees have reviewed, understand, and will abide by the Security and Operations Plan.

#### **3.01: Admission to the Licensed Premise**

- A. **Discrimination:** No Licensee shall permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, sexual preference, physical or mental disability, ancestry, or on account of any other classification identified in the Boston Human Rights Ordinance relative to the admission or treatment of persons from the general public or employees at the Licensed Premise.
- B. **Age of Patrons:** No Licensee shall permit any individual on the Licensed Premise not of the legal age of twenty-one (21), except in the case of RMDs.
- C. **Intoxicated or Unruly Patrons:** No Licensee shall permit any individual on the Licensed Premise who appears to be intoxicated or unruly and may evict such an individual from the Licensed Premise. In the event of any intoxicated or unruly individual, the Licensee shall offer assistance when possible and shall call the appropriate authorities.

#### **3.02: Hours of Operation**

- A. **Closing Hour:** No Licensee shall allow any individual, guest, or employee who is not presently on-duty on the Licensed Premise after the closing hour posted on the License or prior to the opening hour posted on the License.
- B. **Employees:** Employees, whether directly or indirectly employed by the Licensee, may be permitted on the Licensed Premise after hours only if said employee is actively engaged in cleaning, making emergency repairs, providing security, or opening or closing the Licensed Premise in an orderly manner. No other persons, friends, or relatives may be on the Licensed Premise with said employee during hours when the public is not permitted.



**3.03: Capacity:** No Licensee shall permit entrance to the Licensed Premise by more persons than the total capacity approved by the BCB and listed on the License. Said capacity is to include the number of patrons, employees, and any other individuals in the Licensed Premise at any given time.

**3.04: Good Standing:** No License shall be issued nor shall any License be renewed or considered in good standing unless the Licensee entity and the Licensed Premise comply with all statutory requirements including all applicable building codes and fire, health, safety, payment of taxes, and other City, state, or federal regulations and laws.

### **3.05: Operation and Supervision of the Licensed Premise**

- A. **Approved Floor Plan:** The Licensed Premise shall conform to the floor plan approved by the BCB and the description of the Licensed Premise listed on the License. Changes to the floor plan or description shall not be made without the prior written approval of the BCB and, to the extent necessary, by the CCC.
- B. **Conditions:** The Licensed Premise shall be kept in a clean and sanitary condition including the area immediately adjacent to the Licensed Premise.
- C. **Supervision:** The Licensee shall ensure a high degree of supervision is exercised over the conduct at the Licensed Premise at all times and will be held accountable for any violations occurring at the Licensed Premise.
- D. **Monitoring the Adjacent Area:** The Licensee shall monitor the area adjacent to the License Premise and act reasonably and diligently to deter loitering, illegal activity, improper disposal of trash, and any other behavior having a negative impact to the surrounding community.
- E. **Lines:** The Licensee shall monitor any line or queuing outside the License Premise to ensure no public right of way is impeded or blocked.
- F. **Gathering and Congregating:** No Licensee shall allow any area outside the Licensed Premise to be used as a gathering place for patrons without the prior written approval of the BCB. No Licensee shall install any benches, seating, or other areas that encourage gathering or congregating without the prior written approval of the BCB.

- G. **Dispersal:** No Licensee shall allow any patrons to congregate after the closing hour and shall make all reasonable efforts to disperse any individuals outside of the Licensed Premise.
- H. **Obstructing Entrances/Exits:** No Licensee may lock, obstruct, or in any way block main and emergency entrances/exits while any patrons are in the Licensed Premise.
- I. **Notifying the Appropriate Authorities:** Licensee shall immediately notify the appropriate authorities of any known or suspected violation of these Rules or Regulations or any other City, state, or federal rule, regulation, or law that has taken place on or near the Licensed Premise whether said violation is related or unrelated to the business of the Licensee.

### **3.06: Inspection of the Licensed Premise**

- A. **Inspection by the Agents of the BCB:** Every Licensee shall be subject to inspections by any agent of the BCB which shall include the appropriate authorities and representatives of any City department. In the event of any employee hindering, delaying, or otherwise interfering with any inspection by an agent of the BCB or failing to cooperate with the same, the BCB, at its discretion, may take disciplinary action against the Licensee.
- B. **List of Employees:** Every Licensee shall maintain a current list of all employees, whether directly or indirectly employed by the Licensee, available for inspection at the Licensed Premise upon the request of any agent of the BCB.
- C. **Signaling:** No Licensee or any employee may utilize any device or equipment for the purpose of signaling to employees that an agent of the BCB is present.

**3.07: Non-Use:** No Licensee shall temporarily or permanently suspend or cease operations at the Licensed Premise without obtaining the prior written approval or order of the BCB or CCC.

### **Section 4: Business Arrangements of the Licensee**

**4.00: Beneficial Interest Holders:** No Licensee shall permit any person to have a direct or indirect financial or beneficial interest in the Licensee entity or to receive any revenue from the business or to manage the Licensed Premise other than the persons properly approved of by the BCB and the employees of the Licensee.

**4.01: Individuals in Position of Authority:** No Licensee shall permit any person to work at the Licensed Premise or to hold themselves out as a person in a position of authority at the Licensed Premise except for those persons who are disclosed and approved direct or indirect beneficial interest holders or who are salaried employees for whom payroll records are available.

**4.02: Leasing of the Licensed Premise:** No Licensee shall lease out any part of the Licensed Premise or any part of the business without the prior written approval of the BCB.

## **Section 5: Regulation of the License**

**5.00: Cause for Revocation, Suspension, Modification, or Fine:** Any License issued by the BCB may be modified, suspended, revoked, or issued a fine in lieu of the forgoing upon notice and a public hearing before the BCB should the BCB determine there has been a violation by the Licensee of any of these Rules and Regulations or any rule, regulation, law, or other guidance issued by the BCB or City, state, or federal government.

**5.01: Notice:** Notice of such a hearing shall be delivered to the Licensed Premise via hand delivery or certified mail at least two (2) weeks prior to the public hearing.

**5.02: Written Decision:** A written decision shall be issued within thirty (30) days upon a finding by the BCB that a violation has occurred stating the specific reasons for the BCB's findings.



8 Zoar St  
Worcester, MA 01604

July 6, 2020

Boston Cannabis Board  
One City Hall Square, Room 817  
Boston, MA 02201

To the Boston Cannabis Board,

I write to share my comments on the Boston Cannabis Board’s Rules and Regulations (the “Draft Rules”), drafted under the City of Boston’s Ordinance Establishing Equitable Regulation of the Cannabis Industry in the City of Boston (the “Ordinance”). I am the founder and CEO of New Dia, LLC. We are a 97% minority owned business on solid financial footing (we have the option, if necessary, to receive funding through an economic empowerment accelerator loan from Trulieve Holdings, Inc.). We held a community outreach meeting hosted by ONS in April of 2019, at which we received overwhelming support and positive comments for our proposed location in the Fenway neighborhood. At this time of fundamental change in the City and across the country, many entrepreneurs of color, such as myself, are gravely concerned that the Draft Rules actually set back the cause of social equity that the Ordinance and this Board were supposed to advance. As drafted, these regulations will unfortunately worsen the *business ‘redlining’* that has occurred in the City’s cannabis industry. As it stands, the City has given monopolies to almost a dozen non-minority cannabis business to *each* exclusively operate within a mile-wide area of the most prime locations of the Fenway, Back Bay, North Station, the Financial District, and the South End.

Of the 14 businesses that have been granted these “buffer zone” monopolies, *only* three are Equity Applicants – such as myself. Worse still, these three have been located in farther-flung, majority-minority neighborhoods, while non-minority businesses are granted the exclusive privilege to operate in the central locations with the most foot traffic, and buying power.<sup>1</sup> Again,

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<sup>1</sup> For instance – because of the City’s “half-mile buffer” rule codified in the Boston Zoning Ordinance – well-connected, white-owned companies now own the *exclusive* right to a half-mile buffer in every direction of:

- 120 Brookline Avenue - Fenway
- 268-274 Friend Street – North Station
- 591 Albany Street – South End

whether intentional or not, the City’s selection process for Host Community Agreements now looks like a form of business ‘redlining.’ As drafted, the Draft Rules lock in these monopolies.

Under the Draft Rules, any operator that “holds a valid Host Community Agreement with the City of Boston that was executed prior to the first hearing of the BCB” is defined to be an “Existing cannabis establishment.” Any other applicant within a half mile in any direction of that operator must comply with numerous additional requirements that are set out in the “Applications Within the Buffer Zone” Rules at § 1.05. Even if those rules are satisfied, the Board “may, in its discretion, accept and hold” a hearing on the applicant, but it does not have to. Draft Rules, § 1.05(C).

The additional administrative requirements to even have a *chance* to be heard for an “Application Within the Buffer Zone” are nearly impossible to meet. In order to give businesses like mine – the businesses that the authors of the Ordinance specifically sought to help – a fair chance to compete with better-financed competitors, two changes to the Draft Rules are necessary. New Dia respectfully requests the following amendments:

First, Draft Rules, § 1.05(C) should be amended to require that the Board **must** hold a hearing on a completed application within the Buffer Zone, where the applicant is an equity licensee and the “existing cannabis establishment” within the Buffer Zone is not an equity licensee. Currently, the Draft Rules state that the Board “may, in its discretion, accept and hold” such a hearing – and only if the additional requirements, such as abutter support letters, are met.

Second, the requirement in the case of a buffer-zone conflict, that an applicant receive a “letter of support from each direct abutter of the proposed location as recorded with the City’ assessing department stating support for the application” should be removed in its entirety or for buffer zone applicants. Within the City, any given parcel may have a large number of abutters, to whom the Draft Rules hand *just one individual* a unilateral power to quash an application. While community support is critical to a marijuana licensing decision, absolute consensus is never achievable. Consider the case where one tenant in a large apartment complex would have veto power over an applicant, like me, seeking to operate within the same half mile radius as a large national company. It is unrealistic to require a business to secure the support of each and every one of its neighbors, particularly when an applicant would still require a variance from the City’s Zoning Board of Appeals, which requires notification to all abutters and appeal rights.

New Dia respectfully requests that Section 1.05(C) of the Draft Rules be amended as follows:

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- 230 Harvard Street - Allston
  - 54A Hyde Park Avenue – Jamaica Plain
  - 717-721 American Legion Highway - Roslindale

By comparison, the only minority-owned businesses in the City to receive Host Community Agreements have been in Dorchester, Mattapan and Jamaica Plan.

- **Section 1.05(C).** The BCB may, in its discretion, accept and hold a hearing on a complete application in accordance with these Rules and Regulations regardless of whether a Buffer Zone conflict exists, provided however that the BCB shall accept and hold a hearing on an application of an Equity Applicant certified pursuant to Section 1.04(B) where a Buffer Zone conflict exists with one or more Existing cannabis establishments as defined by Section 1.05(B). Section 1.05(D) shall not be applicable to an Equity Applicant certified pursuant to Section 1.04(B).

This proposed amendment advances the letter and spirit of the Ordinance. The architect of the Ordinance, City Council President Kim Janey, explained that the spirit of the Ordinance was not to perpetuate the *status quo* in which equity applicants are relegated only to majority minority neighborhoods. She said: “It’s not enough to say we have half of the licenses within Boston going to equity applicants if all the equity applicants are forced to be on the outskirts. We know all the money’s in the center of the city. If we sit back and let the market take its course, we’ll just be building on top of existing inequities.” See City agency aimed at bringing transparency to marijuana decisions is poised to begin work, *Boston Globe*, May 27, 2020, available at: <https://www.bostonglobe.com/2020/05/27/marijuana/boston-cannabis-board-meet-first-time-june>.

These changes will ensure that the Buffer Zone is not applied to the licensing process in such a way that systematically disadvantages minority business owners like myself. Where specific land use concerns may apply to a specific location, those concerns can be resolved through the zoning process, or at the Board. But it is unfair to shut the door on us again – without even a fair hearing.

I thank you for the opportunity to provide my comments and look forward to a continuing dialogue on building a fair and equitable cannabis industry in the City of Boston.

# MEMORANDUM

**TO:** Boston Cannabis Board  
**FROM:** Assured Testing Laboratory  
**DATE:** July 7, 2020  
**RE:** Assured Testing Laboratory Written Comment on Boston Cannabis Board Draft Rules and Regulations

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Dear Board Members,

Congratulations on the formation of, and your appointment to, the Boston Cannabis Board. Assured Testing Laboratory submits this written testimony with great enthusiasm. We appreciate the opportunity to participate in this period of public comment on the draft rules and regulations. We look forward to providing continued support and resources to establish appropriate standards for independent laboratory testing of cannabis products.

Assured Testing Laboratory LLC was created to address the current problems in the cannabis testing market facing the Commonwealth today. We are attempting to establish a testing facility in Dorchester capable of immediately serving the testing needs of the burgeoning cannabis industry in Massachusetts. Attached for your reference are the biographies of our founders.

It is imperative that Independent Testing Laboratories operate to establish the safety of products produced in Massachusetts, and they are independent of and from other Marijuana Establishments. There are two licensed Independent Testing Laboratories operating in the Commonwealth, only one of which is accepting samples from new customers. There remains consistent concern from retailers, producers, and consumers alike that current supply is not meeting testing demand.

ATL received our rejection letter from Inspectional Services on March 18<sup>th</sup>, 2020 and are patiently waiting to be contacted for our HCA meeting. We have also met with the Columbia-Savin Hill, Freeport-Adams, John W. McCormack, and Clam Point neighborhood associations to introduce ourselves and solicit feedback. We consistently received comments that the community impact of hosting a testing facility is very different from hosting a dispensary, grow, or other Marijuana Establishment. All these civic associations expressed support for our proposal, and Columbia-Savin Hill Civic Association has formally voted their support of our efforts.

Throughout our consistent and ongoing engagement with the community, the notion that a testing laboratory has different impacts than a retail or production facility appears to be widely acknowledged among numerous constituencies in Boston. We have read through the

commission's draft rules and regulations with this perspective. Accordingly, we would encourage the Board to adopt regulations and guidelines that acknowledge these inherent differences, and to aid in addressing the testing problem as expediently as possible.

We look forward to attending the upcoming hearing on July 8, 2020 to offer accompanying oral testimony. ATL is committed to implementing quality standards that will ensure the deliverance of safe products for every consumer across the City of Boston and the Commonwealth. We are committed to ensuring aid to all cannabis establishments put forth by this commission and realizing their fullest potential by assuring adequate testing capacity for all. Please feel free to call upon our expertise at any time throughout this process. We thank you for your deliberations.

Sincerely,

Dimitrios Pelekoudas  
CEO & CO-FOUNDER  
Assured Testing Laboratory, LLC





June 29, 2020

**FOR ELECTRONIC SUBMISSION**

Boston Cannabis Board  
One City Hall Square, Room 817  
Boston, MA 02201

RE: Public Comments on Boston Cannabis Board (BCB) Draft Regulations

Dear Esteemed Members of the Boston Cannabis Board:

Thank you very much for providing Evergreen Farms, LLC (EVG) the opportunity to comment on the Boston Cannabis Board (BCB) draft rules and regulations released to the public on June 18<sup>th</sup>, 2020. We thank you in advance for your consideration of our comments included in this submission, and welcome an opportunity to discuss them with you at any time.

**Background**

EVG is a current applicant for a retail marijuana license with the City of Boston, first having submitted an application in early 2018. EVG is a locally owned business. Sean Berte of Roslindale and Armani White of Roxbury are majority owners, with a minority ownership being held by the third owner, Jillian Domenici, Sean's wife. Sean and Armani hold, under their business entity, state certification as an Economic Empowerment Priority Applicant (EE) with the Cannabis Control Commission (CCC). Sean and Jill, individually, are Social Equity Program Participants (SE), a program promoting equity in the cannabis industry also operated by the CCC.

Since 2018, EVG has sought a license to operate a retail marijuana establishment in Hyde Park. Since applying in 2018, EVG has seen the rules regarding licensure by the City of Boston change on several occasions, beginning with a new online application process through the City of Boston website, additional requirements for information and documents sought by the City during EVG's pending application period, after the Boston City Council voted on *An Ordinance Establishing the Equitable Regulation of the Cannabis Industry in the City of Boston* which established the BCB, and again now as the BCB considers rules and regulations for the Board's approval process for applicants. Though difficult at times for a small EE business, EVG has complied with all changes throughout the process to the best of the Company's ability. Today, we write to provide feedback on two aspects of the draft rules released by the BCB which present new hurdles for EVG, and other companies in similar positions to EVG. These rules, as explained below, make the application process and scoring of such application by the Board at a hearing patently unfair and we ask for your consideration in amending them to address our concerns.



## Comments on BCB Draft Rules and Regulations

### **1. Evaluation of New Applications (Section 1.03)**

Section 1.03, Subsection A of the BCB's Draft Rules and Regulations state that *"an application for a license shall be evaluated on criteria established in Section 8-13.8 of the Ordinance"* (*"An Ordinance Establishing Equitable Regulation of the Cannabis Industry in the City of Boston"* herein *"Ordinance"*) and that each member of the BCB *"will complete a "Score Sheet" for each application based on the application and the presentation before the BCB at the public hearing."* Section 8-13.8 of the Ordinance lists five factors by which applicants shall be evaluated and they include: 1) Diversity and Inclusion Plan (25%); 2) Employment Plan (20%); 3) Community Feedback/Public Support (20%); 4) Location, Safety and Security (20%) and; 5) Parking/Transportation Plan (15%). The inclusion of these five factors and the percentage of weight for each criteria clearly indicates the Boston City Council's legislative intent that each be an important aspect for evaluation. Section 1.03, Subsection B of the draft regulations states that a *"minimum score of fifty percent (50%) of evaluation criteria items two (2) through five (5) will be required in order for the BCB to vote to approve or conditionally approve an application."*

Regardless of the fact that there are five factors for evaluation in section 8-13.8 of the Ordinance, and criteria one (1) "Diversity and Inclusion Plan" holds the highest percentage for evaluation of all five categories, the current BCB draft regulations do not score applicants on that particular criteria at all. By plain reading of Subsection B of 1.03, criteria one (1) of 8-13.8 of the Ordinance is not considered by the BCB in determining a minimum score and through that score, an approval for licensure by the BCB. This language directly contradicts Section 1.03, Subsection A on its face, as "Diversity and Inclusion Plan" is a criteria for evaluation in the cited section of the Ordinance, and should therefore be a criteria BCB members consider when completing their "score sheets."

Beyond the direct contradiction in the draft regulations, disregarding the diversity and inclusion criteria included in the Ordinance seems in direct conflict with the City of Boston and the BCB's goal of creating equity in the cannabis industry and in ensuring that companies doing business in Boston are committed to addressing longstanding disenfranchisement of individuals disproportionately harmed by the war on drugs, especially those who are non-white or have criminal records for marijuana offenses. This goal is shared by the CCC, as diversity and positive impact plans are required aspects of an application for a state license to operate a marijuana establishment, and are the key pillars to both the EE and SE programs run by the agency. For the BCB to ignore this criteria is a contrary to these important equity goals in the nascent industry, and does a disservice to companies that have put an emphasis on plans to address these longstanding issues.

The "Diversity and Inclusion Plan" is the first listed criteria in the Ordinance for evaluation, and the highest ranked one as it relates to the percentage value for evaluation. EVG, and we can only assume many other companies seeking licensure in Boston, have focused on this criteria before and particularly after passage of the Ordinance based on that ranking, and it would be patently unfair to, at this stage, change the rules and disregard the evaluation point now. EVG would also be remiss not to note that the



company is owned and operated by an African American man with a longstanding record of advocacy for social justice for black and brown people across Boston, a white man who spent time in prison for marijuana crimes, and a female entrepreneur. All three owners have goals to engage and contract with minority, veteran, women and LGBTQ owned businesses throughout the lifetime of the company to the extent they are able, which goes well beyond any diversity “hiring goals” which may be considered under criteria two (2) of the Ordinance. These plans would certainly be up for consideration by the BCB under criteria one (1), but under these rules could be ignored. We hope that the BCB reverses course and includes as a “score sheet” criteria all five listed criteria from Section 8-13.8 of the Ordinance, and gives the appropriate weight to criteria One (1) as intended by the Boston City Council when passing the bill.

## **2. Buffer Zones; Additional Requirements (Section 1.05)**

Section 1.05 of the BCB’s draft rules and regulations relate to Boston Zoning Code Article 8, which in essence requires a ½ mile buffer zone between cannabis establishments in the City of Boston. Subsection C under this Section notes that the BCB can hear completed applications for applicants with “Buffer Zone conflicts” which is assumed to mean those competing for licenses within the ½ mile buffer zone. EVG does not have an objection to the BCB hearing competing applications, and understands that competition within buffer zones is a natural aspect of entering the Boston cannabis marketplace. However, Subsection D of Section 1.05 establishes brand new rules of play for applicants with pending applications before the City, creates serious inequities between applicants coming before the board, and includes inherent risk of undue influence and/or monetary inducement by applicants on abutters in order to comply with the rules.

Until the BCB draft regulations were released, applicants for marijuana licenses in the City of Boston understood one of the pillars of the City’s process for approval to include community support. The process, both under City rules and CCC regulations was that each applicant must complete a “Community Outreach Meeting” within 6 months of applying for a license. The City of Boston requires that the Office of Neighborhood Services (ONS) assist in planning and running these meetings. At no time in the process, which EVG has been in since the beginning of 2018, was there any requirement that direct abutters sign letters of support for the business, and acknowledge any Buffer Zone conflict. EVG has focused over the last nearly three years on building community support in the form of sign-on letters and letters from local business and community leaders, in addition to local elected officials. If EVG knew there was a requirement for letters from direct abutters in order to have a complete application, as required by the BCB’s draft rules, it would have taken a completely different approach to its community work over the past three years. Getting letters from the direct abutters would have been the most important aspect of the application since the letters are required to mark an application “complete”, a requisite for moving forward with any chance of being licensed by the City.

Taking a step back, requiring certain applicants (those with Buffer Zone conflicts) to meet certain conditions that other applicants (those without Buffer Zone conflicts) are not required to meet is unfair and deprives Buffer Zone conflict applicants the right to be heard by the BCB should such conditions not



be achieved. Rules and Regulations for any licensed industry, particularly in relation to how an applicant can be heard before a licensing board, should not include different standards for each applicant – each should be evaluated on the same merits, under the same standards and under the same conditions. If an applicant happens to have a Buffer Zone conflict and is approved for a conditional license by the BCB, it should be the City of Boston or the Zoning Board that determines how to handle the conflict and determine which applicant moves forward.

Additionally, Subsection D is problematic for the mere reason that an applicant with a complete application may have, before being heard by the Board, a new Buffer Zone conflict that was unknown at the time of application. What would happen in this scenario? Would the applicant ready to present to the BCB be forced to delay their hearing in order to comply with Subsection D, regardless of how long they had been in the application process with the City? These issues would not exist if the requirements of Subsection D were removed from the regulations, which EVG hopes the BCB will do when it considers the final rules.

Finally, EVG holds grave concerns regarding the process by which these letters of support from abutters are achieved. First, we must assume that the “direct abutter” is the owner of the property, rather than the resident who lives or does business at the property, however that is not made clear in the regulations. Second, It is not out of the imaginable that two competing businesses would share a direct abutter, or that properties directly abutting each proposed location within a buffer zone have the same owner of record, assuming that is who the BCB believes is the “direct abutter.” Should two competing businesses share such an abutter, there is an inherent risk that the abutter will be wooed by one party over the other to garner support, which could include financial inducement to sign the letter. EE, SE and small locally owned businesses are at a severe disadvantage in this scenario when up against a competitor with deep pockets and the ability to pay, or incentivize abutters in a way such a small owner cannot. If the goal of the City of Boston and the BCB is for half of the licenses in Boston be held by equity or minority-owned businesses, Subsection D sets up such businesses to fail against larger corporations, and bar them access to the industry in its entirety. EVG feels strongly this Section should be removed in its entirety for all of the above reasons.

In sum, Buffer Zone conflicts are not criteria on which an applicant is evaluated by the BCB, but would, if Subsection D remains in effect in final regulations, bar fully an applicant access to the industry if compliance is not achieved. It is also worth noting that requiring letters of approval by abutters are not placed on other types of businesses in the City, and thus a double inequity is placed on Buffer Zone conflict applicants in the cannabis space. If the BCB is working to achieve equity in the industry, creating different rules of play for different applicants achieves the opposite effect, and EVG urges the BCB to remove Subsection D from the final rules and regulations.

### Conclusion

Thank you kindly for your consideration of the issues we have outlined in these comments. EVG is incredibly supportive of the BCB and the City of Boston’s goal to achieve equity in a space that before



legalization inflicted disproportionate harm on black and brown communities, and those who have been victims of the war on drugs and marijuana laws and enforcement. We hope that the goals set forth through the Ordinance and the BCB rules and regulations help address these longstanding inequities, and provide fair and equal opportunities to equity and non-equity applicants alike.

EVG is happy to discuss any of these comments in person, via virtual meeting, or in any other format the Board sees fit at any time. We can be reach at the numbers and email addresses included below. Again, thank you for your consideration and we wish you luck as you embark on your mission to grant licenses in a manner than ensures equity, quality and community safety.

Sincerely yours,

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Armani White  
857-222-3233  
Armani.white@evgfarms.com

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Sean Berte  
617-595-6090  
Sean.berte@evgfarms.com

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Jillian Domenici  
617-676-7947  
jilldomenici@gmail.com



# BCB VIRTUAL HEARING

*Roz McCarthy, Founder/CEO M4MM*

July 8, 2020

## **PUBLIC TESTIMONY**

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### **Minorities for Medical Marijuana (M4MM)- Overview**

Minorities for Medical Marijuana, Inc. (M4MM) is organized as a non- profit organization with its corporate office based in Orlando, Florida. The organization was established in May 2016 and currently has 27 state chapter locations and 3 international locations. M4MM's mission is focused on providing advocacy, outreach, research, and training as it relates to the business, social justice, public policy, and health /wellness in the cannabis industry. Our Massachusetts chapter is led by Mr. Derrell Black, Cannabis entrepreneur, advocate, and community educator who resides in Dorchester, MA. [www.m4mmunited.org](http://www.m4mmunited.org)

### **Our Goals and Priorities**

- Protect equity applicants against fraud
- Protect equity from misrepresentation
- Protect equity applicants from licensing access barriers and issues.
- Support equity applicants with a easy to follow workflow highlighting the application process.
- Protect equity applicants from intentional/ unintentional redlining business threat.

## **Current Situation**

- 14 Host Community Agreements on Record
- 3 of 14 are Economic Empowered (Equity) Business Applicants
- Current rules will compound and perpetuate the current barriers equity applicants have when trying to enter the legalized industry.
- The current non equity applicants are white owned national and affluent businesses who essentially are monopolizing the business opportunities for equity applicants who also want to realize revenue from the volume driven opportunities presented when establishing a business in Boston City Center.
- The proposed draft zoning rules are within direct conflict with the city of Boston and BCB's intent and goal in creating equity in the cannabis industry. Furthermore, without implementing these changes the BCB will continue to perpetuate the status quo in which equity applicants are relegated only to minority neighborhoods where buffer-zone conflicts may not currently exist.

## **Recommendations**

- Buffer Zone- Equity applicants get a automatic hearing with the BCB in the case of buffer zone issues.
- Social equity applicants in a non-social equity applicant's buffer will receive a license and automatic recommendation to the ZBA that the variance be granted.
- Therefore; Letters of support from City District office and/or Mayor's Office of Neighborhood Services would be optional for equity applicants.
- Therefore; In the case of buffer-zone conflicts, the requirement for equity applicants to receive "letter of support from each direct abutter of proposed location as recorded with the City stating support" should be removed.
- Therefore; Equity applicants statement would be used as the basis for automatically recommending the ZBA grant the variance.







Boston City Council

KIM JANEY  
Council President – District 7

July 8th, 2020

Kathleen Joyce  
Chair, Boston Cannabis Board  
One City Hall Square, Room 817  
Boston, MA 02201

Dear Chair Joyce,

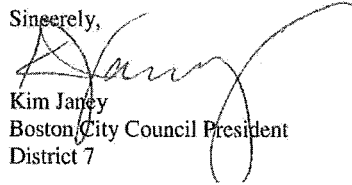
For the past two and half years, I have been working with my colleagues on the City Council and the Mayor's Office to ensure the City focuses on equity as the cannabis industry begins to establish itself in Boston. I am pleased to see steps taken towards that goal with the creation of the Boston Cannabis Board, but as you know this is where the real work begins. I am writing to you to express three glaring concerns regarding the Boston Cannabis Board's (BCB) draft rules and regulations. I believe in order to truly implement *An Ordinance Establishing the Equitable Regulation of the Cannabis Industry in the City of Boston* in a fashion true to its equity-focused intent, the following issues in the Board's proposed rules and regulations must be addressed.

The current draft rules and regulations in Subsection B of "Evaluation of New Applicants" omits diversity and inclusion language from the BCB's list of judging criteria, contrary to what is outlined in Section 8-13.8 of the ordinance. In the ordinance, the "Diversity and Inclusion Plan" holds the highest criteria percentage to ensure that companies are committed to the City's goal of ensuring equity in this cannabis industry. It is critical that the BCB adopt the same language and criteria found in the ordinance to provide the same transparent, public-facing process and to be consistent with our equity goals. Next, section D of the rules requires that applicants with buffer zone conflicts obtain letters of support from direct abutters. Requiring applicants to seek support from direct abutters invites potential bias and other unintended consequences that will disadvantage applicants against each other especially small businesses against large corporations. To ensure a transparent and equitable process and to leave no room for bias, the BCB must eliminate this extra requirement. Lastly, the rules do not currently outline a process for applicants to make changes to their application after submission, including changes in address/physical location. If after submission, an applicant finds out that their location conflicts with another and needs to make such changes to accommodate the buffer zone requirement, would it affect their spot in the queue? Would the applicant have to start all over again or will need to have a special hearing? If unforeseen conflicts arise, the BCB must outline how it will address such conflicts other than the aforementioned requirements so that the application process is not further delayed.

As the author of *An Ordinance Establishing Equitable Regulation of the Cannabis Industry in the City of Boston*, I am concerned that the draft rules and regulations as presented will create additional barriers that the ordinance aimed to dismantle. It is imperative that our focus on equity permeates through every level of this industry so that we may truly begin healing from the decades of harm done by the unjust "War on Drugs" that has disproportionately impacted Black and Brown communities.

I am strongly urging the Boston Cannabis Board to take these concerns into consideration when finalizing the Board's rules and regulations. Thank you for your time and attention to this letter.

Sincerely,



Kim Janey  
Boston City Council President  
District 7

cc: The Boston Cannabis Board

CC: Martin J. Walsh, Mayor, City of Boston; John Barros, Chief of Economic Development, City of Boston;  
Alexis Tkachuk, Director- Office of Emerging Industries, City of Boston

**From the Office of Michael Latulippe, Economic Empowerment  
Priority Applicant (EEA202380)**

650-315-7106    [michaellatulippe@gmail.com](mailto:michaellatulippe@gmail.com)    190 Bridge St. #2314 Salem, MA 01970

July 13, 2020

To the Boston Cannabis Board (BCB)  
1 City Hall Square #500,  
Boston, MA 02201

**Subject:** Public Comment on “Boston Cannabis Board Rules & Regulations”

To the Executive Secretary, Commissioners, and staff,

Below is my public comment on the proposed Boston Cannabis Board Rules & Regulations. I am thankful to be given this opportunity to improve the proposed language. My suggested changes to the regulatory language is included in red bold italic text below.

**Add Reference to Boston Zoning Code in the Definitions Section**

The proposed rules and regulations continuously refer to the term “Cannabis Establishment” which is defined in Boston Zoning Code Article 2<sup>1</sup> and not the Cannabis Control Commission’s (CCC) regulations 935 CMR 500.002<sup>2</sup>. The CCC’s regulations 935 CMR 500.002 defines a “Marijuana Establishment” as excluding Medical Marijuana Treatment Centers (MTC) while the Boston Zoning Code’s definition of “Cannabis Establishment” refers to both adult use marijuana establishments and MTCs.

***Suggested Change to Definitions***

*“Unless otherwise defined in these Rules and Regulations any capitalized term shall have the meaning ascribed to it by the CCC or the **Boston Zoning Code.**”*

**Equity Applicant Waiver for Buffer Zone Additional Requirements**

Allowing equity applicants to easily waive the Buffer Zone “D. Additional Requirements” section will ensure equity applicants have a stronger chance of succeeding by removing additional burdensome requirements. Economic Empowerment applicants were already told that it would be possible to waive any buffer zone requirement because on their equity status at the Zoning Board of Appeals. It is my opinion that waiving the additional requirements section

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<sup>1</sup> *Boston Zoning Code Article 2:* [https://library.municode.com/ma/boston/codes/redevelopment\\_authority?nodeId=ART2DE](https://library.municode.com/ma/boston/codes/redevelopment_authority?nodeId=ART2DE)

<sup>2</sup> *Massachusetts Cannabis Control Commission, 935 CMR 500.000 Adult Use Marijuana, 12/13/2019,* <https://www.mass.gov/doc/935-cmr-500-adult-use-of-marijuana/download>

under Section 1.05 for buffer zone conflicts will ensure these equity applicants continue to receive benefits they have already expected since the beginning of this process.

***Suggested Change to Section 1.05(D) Buffer Zone Additional Requirements***

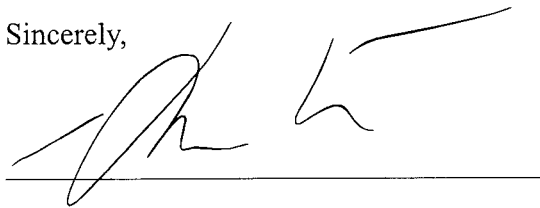
***“D. Additional Requirements: Any applicant for a License with a Buffer Zone conflict except a BCB approved equity applicant must provide the following to the BCB with its complete application in order to be scheduled for a hearing:”***

**Conclusion**

The important work you are undertaking to ensure a diverse and equitable cannabis industry will be challenging and also fulfilling. I believe with the above changes to the regulations your work will be easier in the long run ensuring a more equitable industry.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Latulippe', is written over a horizontal line. The signature is stylized and cursive.

Michael Latulippe

EEA202380

Good Afternoon,

I am seeking clarification from the Boston Cannabis Board (BCB) regarding the Boston Equity Program. Boston City Ordinance 8-13.3 states that "an applicant shall be designated by the Boston Cannabis Board as a equity applicant if at least 51% of its ownership, meets at least 3 of the...criteria."

Is the 51% calculated as an aggregate, i.e. together at least 51% of the ownership must meet at least three (3) of the criteria? Alternatively, is each individual counting towards the 51% required to meet at least three (3) of the criteria?

To count towards the "at least 51%", must those individuals be considered a "controlling person" as defined by Boston City Ordinance 8-13.2?

Boston City Ordinance 8-13.2 defines an "area of disproportionate impact" as a "geographic area identified by the Boston Cannabis Board or the Cannabis Control Commission..."; however, Boston City Ordinance 8-13.3 (1) states that the Cannabis Control Commission's definition of area disproportionate impact controls. What is the BCB's definition of an area of disproportionate impact, how does it differ from that of the CCC, and which definition controls throughout the Ordinance?

Is the BCB using HUD guidelines to determine area median income (AMI), if not, what tool will the BCBC use to determine AMI?

Any guidance you can provide will be immensely helpful to my review of equity applications and the success of the Boston Equity Fund.

Best,

Chayla White

**Chayla White, Esq.**

Office of Economic Development

1 City Hall Plaza, Room 717

Boston, MA 02201

617.635.3177 | [chayla.white@boston.gov](mailto:chayla.white@boston.gov)

Lesley and Kathleen-

Thank you for your reply. We respectfully disagree that the existing Ordinances in the City of Boston (the variance procedure in the Zoning Code), which allow for a variance from the 500' school buffer zone, are not the type of local ordinance referenced in and allowed by the Statute and Regulations. While your email adds the specific phrase "city wide" to define "ordinance", the modifier "city wide" does not appear in the Statute or Regulations. The absence of such language does in fact support the position that "ordinance" is broad enough to allow the use of the variance procedure in the Zoning Code, a City ordinance. As such, we think that the BCB is able to grant licenses for such retail cannabis operators subject to, and after, such operator has received a variance from the Board of Appeal for 500' spacing requirement.

Such an approach is also consistent with existing Cannabis Control Commission municipal equity guidance: "State law establishes a 500-foot buffer around K-12 schools. *A municipality may choose to reduce the size of that buffer.*" (emphasis supplied). As noted above, the buffer can be reduced through the variance process in the Zoning Code. The Guidance continues: "When municipalities impose overly strict zoning rules and large buffer zones, they sharply limit the number of parcels available to potential operators. This favors large businesses with substantial financial resources that can outbid other potential operators and overpay for a lease or purchase of property—often at the expense of smaller, local companies—and tends to direct large rewards to a small handful of landlords and property owners. Allowing for the buffer to be reduced through variance can assist in the equitable siting of these uses.

If the BCB is of a differing mind, we request that Section 1.05E of the draft Rules and Regulations be deleted (there would have to be some limited definitional changes to Section 1.05 as a result). This would preserve the ability of applicants to either prevail upon the City that a pathway currently exists to allow for proposed retail cannabis stores to be located within 500' of an operating school (with a zoning variance) or it would allow the City to modify the Zoning Code buffer or otherwise relax the buffer.

Please let me know if you have any questions or would like to discuss.

Thank you,

Chris

**Christian Regnier**  
(617) 574-6591

***goulston&storrs***

**From:** Lesley Hawkins <[lesley.hawkins@boston.gov](mailto:lesley.hawkins@boston.gov)>

**Sent:** Monday, July 13, 2020 4:23 PM

**To:** Kathleen Joyce <[kathleen.joyce@boston.gov](mailto:kathleen.joyce@boston.gov)>

**Cc:** Regnier, Christian <[CRegnier@GOULSTONSTORRS.com](mailto:CRegnier@GOULSTONSTORRS.com)>; Cannabis Board <[cannabisboard@boston.gov](mailto:cannabisboard@boston.gov)>

**Subject:** Re: [cannabisboard] Re: Boston Cannabis Board- Comments re: 500' Buffer

Chris,

Thank you for forwarding your comments on the draft rules and regulations. A copy will be given to each respective Commissioner for consideration.

While the draft rules and regulations address the variance process for a buffer zone conflict with another existing cannabis establishment, the same process cannot be applied to a school buffer zone process nor can the BCB amend any of the language regarding school buffer zones and how they are measured.

Massachusetts General Law ch. 94G governs the regulation of recreational cannabis. Section 5 (b)(3) specifically governs siting within a school zone as described above and in the legislation:  
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G/Section5>

This section specifically lays out the requirement for a proposed cannabis establishment to be sited within the 500 foot buffer zone stating:

"the property where the proposed marijuana establishment is to be located, at the time the license application is received by the commission, is not located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a city or town adopts an ordinance or by-law that reduces the distance requirement..."

Given existing state law, the BCB does not have the legal authority to consider such an application unless and until a city-wide ordinance or by-law is adopted that reduces the distance requirement. This also means that one specific applicant cannot obtain a variance for a school buffer zone conflict; it must be adopted city-wide.

As you are aware, the draft rules and regulations do contemplate a variance process for the half-mile buffer zone between cannabis establishments.

Please do not hesitate to contact the BCB with any additional questions or comments.

Thank you,

Lesley

**SIGN UP FOR PERIODIC UPDATES FROM THE LICENSING BOARD. [Licensees. Attorneys and Practitioners.](#)**  
Lesley Delaney Hawkins, Esq. | Executive Secretary & General Counsel  
Licensing Board for the City of Boston  
(o) 617.635.4170 | (f) 617.635.4742

On Mon, Jul 13, 2020 at 3:15 PM Kathleen Joyce <[kathleen.joyce@boston.gov](mailto:kathleen.joyce@boston.gov)> wrote:  
Chris,  
Thanks for sending your comments along. I will review.

Kathleen

On Mon, Jul 13, 2020 at 2:48 PM Regnier, Christian <[CRegnier@goulstonstorrs.com](mailto:CRegnier@goulstonstorrs.com)> wrote:  
Kathleen-

I hope you had a nice weekend.

I wanted to follow up on our conversation the week regarding the draft BCB Rules and Regulations. Specifically, the interaction of Section 1.05 of the draft BCB Rules and Regulations and the treatment of the 500' buffer. In short, there is an ability under the state Statute and Regulations for Boston to reduce this buffer. I think the BCB should consider this in respect of updating and finalizing its draft Rules and Regulations to treat the ½ mile and 500' buffer zones similarly. That is, if an applicant gets a variance from one or both buffer zones (as applicable) that are in the Zoning Code, they should be allowed to obtain a license from the BCB and enter into a Host Community Agreement. This flexibility will be important in a dense and compact city like Boston, particularly as more licenses are issued, so as to allow the siting of these retail facilities.

I have attached a document that outlines my thinking in more detail. Happy to have a call or answer any follow up questions.

Thank you,

Chris

**Christian Regnier**

(617) 574-6591

Bio

***goulston&storrs***

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July 15, 2020

Boston Cannabis Board  
Chair Kathleen Joyce  
One City Hall Square  
Room 817  
Boston, MA 02201

Dear Chair Joyce and Board Members:

On behalf of the 41 members of the Commonwealth Dispensary Association, representing more than seventy-five percent of the state's medical and adult-use cannabis operators, we would like to thank you and Mayor Walsh for the opportunity to comment on the Boston Cannabis Board's recently proposed draft rules and regulations. The CDA has been the leading voice of the cannabis industry since its inception in 2015 and is proud to represent cultivators, manufacturers, and retailers from across all regions of Massachusetts. Since adult-use sales commenced in November 2018, our industry has created more than 8,000 jobs and created more than \$120M in state and local revenues. We have done so with a proud track record of partnering with our host communities, supporting hundreds of charitable organizations, and abiding by local rules and ordinances. With that in mind, the CDA would like to offer a few suggestions for the Board to consider.

Ensuring transparency and fairness throughout the cannabis industry is paramount to ensuring equitable access to state and local licensing. This is particularly the case with ownership and control and its relationship with the state cap on three licenses per the Cannabis Control Commission's regulations and licensing categories. As this issue has appropriately received scrutiny by the CCC, we commend the state for its thoughtful and deliberate definitional reforms to ensure that no one person or entity is able to subvert the state licensing cap. As the Board seeks to similarly ensure important transparency and fairness within Boston's own licensing process, we encourage the Board to simply codify the CCC's well-vetted and effective definitional approaches. Specifically, we encourage the Board to substitute the terms "direct beneficial interest holder" and "indirect direct beneficial interest holder" as used within sections 1.02(B), 2.00, 2.04, 4.00, and 4.01, with the CCC definitions for "Close Associate," "Executive," "Owner," "Persons or Entities Having Direct Control," and "Persons or Entities Having Indirect Control." Without clear and consistent definitions, applicants will find it impossible to comply with critically important transparency measures that ensure fairness across the industry. For those applicants which are subsidiaries of public companies, undefined "indirect beneficial interest holders" could constitute thousands of shareholders which may change daily. And for privately held companies, this could further dissuade investments of less than 10% equity by persons who have passive investments and no material control or ownership in an application who may already have trepidation about investing in this unbanked, federally illegal industry. Access to capital is the number one biggest issue for any applicant of any size, equity applicants more so than all others. All efforts should be made by the Board to maximize transparency and at the same time support increased access to needed capital. Simply aligning with existing CCC regulations best accomplishes this objective.





However, to truly embody these community-based ideals, our industry must do more to reflect the communities we serve. The CDA believes that an industry made up of a diverse collection of companies in terms of ownership and size is critical to building a vibrant and representative industry that fully supports and reflects its patients, consumers and the communities and neighborhoods within which these companies operate. To this end, the CDA commends the City for thoughtfully seeking policy solutions to ensure equitable opportunities within this new and growing industry.

Barriers to entry into the regulated cannabis market are incredibly high. A leading challenge for any marijuana retailer applicant to access the regulated market is finding a suitable location amidst an extremely competitive real estate market and a maze of zoning and other regulatory restrictions. And even once such a location is found, applicants face significant adversity, facing hundreds of thousands, if not millions of dollars in carrying costs for a time period that often exceeds well beyond one year, while the applicant navigates the intensive community process, the municipal licensing process, and the state CCC process before build out of the proposed retail space even begins. Without greater flexibility in zoning and corresponding site selection, particularly in dense urban cities like Boston, the number of available sites for operating statutory required marijuana retailer sites will be severely limited, increasing the significant competitive advantage of large, capitalized interests over smaller, local or equity-owned applicants. Pursuant to MGL Chapter 94G, the City of Boston is statutorily required to license more than 50 Marijuana Retailers without holding a citywide vote. If Boston wishes to meet this requirement and have an inclusive, diverse and equitable cannabis market, one that is a true national leader as the city has envisioned, it is imperative that the Board, working with the Mayor and City Council, provide flexibility in zoning, particularly with regard to the proposed 500 foot sensitive use buffers for K-12 public and private schools.

Section 5(a)(3) of MGL Chapter 94G states that the 500-foot school buffer is a statutory default rule, “unless a city or town adopts an ordinance or by-law that *reduces the distance requirement*” (emphasis added). This is important as the statute specifically authorizes and contemplates that a municipality can and will reduce such buffers, as lawfully occurred in the cities of Somerville and Cambridge. Such an approach would also be consistent with the CCC’s own “Guidance on Equitable Cannabis Policies for Municipalities”:<sup>1</sup>

State law establishes a 500-foot buffer around K-12 schools. *A municipality may choose to reduce the size of that buffer.* [...] When municipalities impose overly strict zoning rules and large buffer zones, they sharply limit the number of parcels available to potential operators. This favors large businesses with substantial financial resources that can outbid other potential operators and overpay for a lease or purchase of property—often at the expense of smaller, local companies—and tends to direct large rewards to a small handful of landlords and property owners. (Emphasis added).

We direct the Board’s attention to the thoughtful policy provisions already proposed by the Board at 1.05(A) through (D) as it relates to providing community-specific mitigation to the City’s half mile zoning restriction. Simply applying these same factors to analyzing any application before the Board that is within 500 feet of a school operating in grades K-12, allows for appropriate community self-determination, allowing the impacted neighborhood to determine whether such a proposal is in their best interest. We will note that this

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<sup>1</sup> Massachusetts Cannabis Control Commission, *Guidance on Equitable Cannabis Policies for Municipalities*, <https://mass-cannabis-control.com/wp-content/uploads/2018/11/Municipal-Equity-Guidance-August-22-1.pdf>



same policy is already in effect in the City of Boston as it relates to permitting alcohol retail licenses within certain distances from schools.

Finally, the CDA encourages the Board to ensure transparency with regards to what is meant by a “complete application.” Many CDA members have been waiting for resolution on their pending applications before the City for several months. If a new process is to be developed with a new application, all efforts should be made to ensure that those applicants who have spent *significant* time and capital while the City has developed its licensing process are provided appropriate considerations and accommodations. Based on the proposed draft, we remain concerned that the “first come, first serve” approach contemplated by the Board upon receiving a yet to be defined “complete application” creates a process by which well-heeled and well-connected applicants with more significant legal resources have a materially greater chance of submitting a “complete application” than a less well-connected and resourced applicant, who may enjoy greater community support, or who perhaps has been waiting in the queue for many months already.

As the Board seeks to finalize its regulations, please do not hesitate to reach out to us as a resource. The Commonwealth Dispensary Association has staff and operators who are uniquely qualified to offer suggestions and ideas to you as you develop your rules and ordinances. We share your interest in making Boston the gold standard for a diverse, thoughtful, and successful cannabis marketplace.

We thank you for your careful consideration and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Torrisi', is written over a light blue horizontal line.

David Torrisi  
*President*

July 14, 2020

Boston Cannabis Board  
One City Hall Square, Room 817  
Boston, MA 02201  
Attn: cannabisboard@boston.gov

Dear Members of the Boston Cannabis Board,

On behalf of Vicente Sederberg LLP, which is a national cannabis law firm that represents numerous medical and adult-use cannabis businesses in the Commonwealth of Massachusetts and throughout the country, enclosed please find recommended changes and comments to the Boston Cannabis Board's Draft Rules and Regulations.

Thank you for your time and consideration, and do not hesitate to contact our office with any questions or requests to discuss our recommended changes and comments further.

Sincerely,

*David M. Ullian*

David M. Ullian, Esq.

# **DRAFT**

## **BOSTON CANNABIS BOARD RULES AND REGULATIONS**

**Message from the Boston Cannabis Board (the “BCB”):** These draft rules and regulations are intended as a framework for public comment and discussion. The goal of promulgating rules and regulations is to provide a clear, predictable, and transparent process for both applicants and other interested and impacted parties. The BCB looks forward to a robust discussion in the coming weeks as these draft rules and regulations develop based on public comment. Any questions regarding these draft rules and regulations or the process should be directed to [cannabisboard@boston.gov](mailto:cannabisboard@boston.gov) or (617) 635-4170.

### **Introduction/Role of the Boston Cannabis Board**

Established pursuant to an ordinance mandating equitable regulation of the cannabis industry in the City of Boston (the “Ordinance”) and an executive order relative to the composition of the Boston Cannabis Board (the “Order”), the Boston Cannabis Board (the “BCB”) is charged with granting licenses (the “ License” or “ Licenses”) to applicants (the “Applicant” or “Applicants”) for a cannabis establishment within the City of Boston while ensuring Licenses are granted in such a manner so as to ensure equity, quality, and community safety. Specifically, the BCB is the siting authority for such establishments evaluating the proposed time, place, and manner in which these establishments are approved, open, and operate.

The BCB aims to issue Licenses in a way that ensures equity both in the distribution of Licenses among qualified applicants in those communities that have been disproportionately impacted by the prior legal prohibition of cannabis and enforcement of the same, as well as to ensure that Licenses are equitably sited throughout the City of Boston. The BCB is committed to providing a clear, predictable, and transparent process for businesses seeking a License.

The BCB is the regulatory authority at the local level overseeing the operations of establishments exercising a License (the “Licensee” or “Licensees”) and holding disciplinary hearings regarding any alleged violation of any City, state, or federal law, rule, or regulation occurring at the licensed premise (the “Licensed Premise”).

The BCB does not have the authority or ability to negotiate host community agreements. These agreements are negotiated between the Office of Emerging Industries and the respective Licensee and will incorporate, among other items, information and conditions contained in the written decision of the BCB granting a License. No Applicant may enter into a host community agreement without the approval of a License by the BCB.

The Cannabis Control Commission (“CCC”) is the state authority charged with approving applicants to operate a cannabis establishment in the Commonwealth pursuant to state law. As such, the CCC considers all cannabis establishment applications under a thorough and diligent review process. The municipal review and approval conducted by the BCB is one of

**Commented [DU1]:** Cannabis is illegal under the federal Controlled Substances Act, so except violations of federal cannabis laws.

**Commented [DU2]:** Will the Boston Public Health Commission still have regulatory authority over medical cannabis establishments in the City of Boston?

the many pieces that comprise a successful application for licensure by the CCC. Thus, while review provided by the BCB serves a vital role in ensuring an equitable, quality, and safe cannabis industry in our communities, the BCB is not the sole authority to grant permission to cannabis establishments to open for business in the City and approval by the BCB does not guarantee the success of an application to the CCC.

**These rules and regulations (the “Rules and Regulations”) may be amended from time to time by the BCB pursuant to all applicable City, state, and federal requirements.**

#### **Index**

To be completed.

#### **Definitions**

Unless otherwise defined in these Rules and Regulations any capitalized term shall have the meaning ascribed to it by the CCC.

#### **Section 1: General Rules of the BCB**

##### **1.00: Overview of the BCB**

- A. **Composition:** The BCB is an independent board appointed by the Mayor and consisting of the Chairman and four (4) commissioners each having a term of two (2) years. Of the five (5) members of the BCB, the following areas of experience and expertise must be represented: public health policy; creating economic development strategies and minority business development strategies within under-resourced communities; experience working in public safety; and the Chairman of the Licensing Board for the City of Boston.
- B. **Staff:** The BCB is staffed by the Executive Secretary who shall not be a voting member of the BCB and shall provide legal and administrative support to the members of the BCB. The Executive Secretary shall serve as the keeper of the record, facilitate hearings before the BCB, prepare written decisions on applications or disciplinary decisions to be executed by the members, and provide additional support as necessary. Additional staff shall also be provided to assist the BCB in its duties.

##### **1.01: Hearing Schedule**

- A. **Transactional Hearings:** The BCB shall meet on the second and third Wednesday of the month. Hearings conducted on the second Wednesday of the month are for new applications and proposed changes to existing Licensees. Hearings conducted on the third Wednesday of the month are the BCB’s voting hearing on items heard the prior Wednesday. Should there be no items to be heard by the BCB in a particular month hearings may be cancelled at the BCB’s discretion.\*
- B. **Disciplinary Hearings:** The BCB shall meet on Tuesdays as necessary to hold a

hearing on any pending Licensed Premise inspection notice or other disciplinary matter regarding an existing Licensee that is in violation of any of these Rules or Regulations, terms or conditions of its existing License, terms and conditions of the HCA, and any other City, state, or federal law, rule, or regulation. Such matters will be voted on by the BCB at the following regularly scheduled voting hearing.\*

**Commented [DU3]:** See comment above re: exception for violations of federal cannabis laws.

\*The hearing schedule may be amended at the discretion of the BCB. All hearings and notices are subject to open meeting law requirements.

### 1.02 : Application and Hearing Process

A. **Application Process:** Upon the filing of a complete application with the BCB, said application shall be time stamped and scheduled for a public hearing to be held no more than thirty (30) days from the receipt of said application. ~~The BCB shall not time stamp or schedule an incomplete accept a partial application for a public hearing. If, after a preliminary review of a submitted application by the Executive Secretary, the BCB determines that a submitted application is incomplete and/or requires additional information, the BCB shall issue a Request for Information (RFI) to the applicant and give the applicant an opportunity to submit additional information.~~ In order to provide clarity and predictability applications will be scheduled for a hearing in the order in which they are received. Notwithstanding the foregoing, should the BCB receive a complete application from a non-equity applicant and any hearing on said non-equity application could result in a violation of the 1:1 equity to non-equity ratio mandated by the Ordinance, a hearing on said non-equity application shall not be scheduled until it can be done without exceeding the required ratio. In order for an application to be placed on the BCB's hearing docket for the second Wednesday of the month, a complete application must be filed with the BCB by the last business day of the preceding month.

**Commented [DU4]:** If an application is determined to be incomplete, the applicant should not be automatically rejected. Just like the CCC's licensing process, the BCB should issue a Request for Information (RFI) to an applicant that submits an incomplete application and give the applicant an opportunity to submit additional information to ensure a complete application submission.

#### A. Application Requirements

This section to be completed pursuant to the Ordinance.

B. ~~Disclosure of Persons or Entities Having Direct and/or Indirect Beneficial Interest Holders: Ownership or Control:~~ All direct and indirect business owners, controlling persons, close associates and investors ~~direct or indirect beneficial interest holders in a proposed Licensee entity must be disclosed in full to the BCB regardless of percentage of direct or indirect beneficial interest ownership or operational control.~~ Failure to adhere to the foregoing may result in disciplinary action including, but not limited to, the suspension or revocation of any License issued by the BCB and ineligibility to apply for a License in the future. The foregoing applies to any and all information submitted with the Application and any supplemental information requested by the BCB or any City department including that related to the certification of an equity applicant.

**Commented [DU5]:** "Direct and indirect beneficial interest holders" is not defined in either the City's Ordinance or the CCC's regulations. The Ordinance requires disclosure of "business owners, controlling persons, close associates, and investors", and "controlling persons", "close associates" and "investors" are defined terms.

Note that the CCC requires disclosure of all "Persons or Entities Having Direct or Indirect Control", which is defined in 935 CMR 500.002. See [https://mass-cannabis-control.com/wp-content/uploads/2019/11/Fall\\_2019\\_Adult\\_Regs\\_500.pdf](https://mass-cannabis-control.com/wp-content/uploads/2019/11/Fall_2019_Adult_Regs_500.pdf)

There should be clarity and consistency in ownership and control disclosures across the Ordinance, the BCB's Rules and Regulations and, ideally, the CCC's regulations.

### 1.03 : Evaluation of New Applications

- A. **Criteria:** An application for a License shall be evaluated based on the criteria established in Section 8-13.8 of the Ordinance. Each member of the BCB will complete a score sheet (the "Score Sheet") for each application based on the application and the presentation before the BCB at the public hearing. The form of the Score Sheet shall be agreed upon by all active members of the BCB and such form may be amended from time to time. Each Score Sheet will become a part of the public record.
- B. **Minimum Score:** A minimum score of fifty percent (50%) of evaluation criteria items two (2) through five (5) will be required in order for the BCB to vote to approve or conditionally approve an application.
- C. **Deliberations:** All deliberations of the BCB shall be conducted in accordance with the open meeting law at the BCB's monthly Voting Hearing on the record.

**1.04 : Equity Program**

- A. **Ratio of Certified Equity Licensees to Non-Equity Licensees:** Pursuant to Section 8-13.3 of the Ordinance, the "City of Boston shall maintain an equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants." In order to ensure the 1:1 ratio of certified equity Licensees to non-equity Licensees, the BCB shall not hold a hearing on any application for a License that, upon the granting of the License, would result in more non-equity than equity Licensees. This may result in complete applications filed by non-equity applicants not being scheduled for a hearing until such time as a certified equity applicant may be scheduled on the same hearing docket. Such non-equity applicants will be placed on a waiting list and will be heard in the order in which the complete application was filed with the BCB pursuant to the conditions contained herein.
- B. **Certification of an Equity Applicant:** In order to ensure compliance with Section 8-13.3 of the Ordinance, the City of Boston Office of Economic Development ("OED") shall review the proposed ~~direct and indirect beneficial interest holders~~ direct and indirect ownership of any proposed Licensee entity to determine whether the entity qualifies as an equity applicant. Prior to a hearing before the BCB, a designated staff member of OED shall certify in writing whether the applicant qualifies as an equity applicant. The designated staff member shall also testify at the hearing before the BCB regarding the applicant's equity status. Such testimony and written certification shall be incorporated into the public record.

**1.05 : Buffer Zone**

- A. **Overview:** The Boston Zoning Code Article 8 specifically states that "any cannabis establishment shall be sited at least one half mile or 2,640 feet from another existing cannabis establishment." For purposes of the licensure of cannabis establishments in the City of Boston this creates a buffer zone between cannabis establishments (the "Buffer Zone").

- B. **Definitions:** “Existing cannabis establishment” is defined as a Licensee which has been granted a License by the BCB. This includes a License to operate a retail facility, a product manufacturer facility, a cultivation facility, a delivery-only facility, an independent testing facility, or any other type of cannabis establishment approved and regulated by the BCB and CCC. Each establishment that holds a valid medical or adult-use Host Community Agreement with the City of Boston that was executed prior to the first hearing of the BCB and that has secured the necessary zoning relief for the underlying use shall be considered an existing cannabis establishment for purposes of the Buffer Zone.
- C. **Applications within the Buffer Zone:** The BCB may, in its discretion, accept and hold a hearing on a complete application in accordance with these Rules and Regulations regardless of whether a Buffer Zone conflict exists. Should the BCB vote to grant a License to an applicant with a Buffer Zone conflict, the grant of the License shall be conditional and shall require the applicant obtain a variance from the Zoning Board of Appeals within one (1) year of the issuance of the BCB’s written decision. Should the applicant fail to obtain a variance within one (1) year, the conditional grant of a License shall be rescinded at the BCB’s discretion.
- D. **Additional Requirements:** Any applicant for a License with a Buffer Zone conflict must provide the following to the BCB with its complete application in order to be scheduled for a hearing:
- Letter of support from the District City Councilor or the Mayor’s Office of Neighborhood Services stating support for the applicant and acknowledging the Buffer Zone conflict.
  - Letter of support from each direct abutter of the proposed location as recorded with the City’s assessing department stating support for the applicant and acknowledging the Buffer Zone conflict.
  - Applicant’s statement explaining in particularity why the applicant should be granted a conditional License despite the Buffer Zone conflict addressing the following:
    - Special circumstances or conditions that apply to the proposed location;
    - Reasons of practical difficulty and substantial hardship explaining why the Buffer Zone conflict should not prevent the BCB from granting a conditional License;
    - How the BCB’s grant of a conditional License would be in harmony with the intent of the Boston Zoning Code provision establishing the Buffer Zone; and
    - How the BCB’s grant of a conditional License would not negatively impact the surrounding neighborhood.
- E. **School Zone:** The process established herein for an applicant for a License with a Buffer Zone conflict does not apply to the statutory prohibition of a cannabis establishment within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades one (1) through twelve (12).

**Commented [DU6]:** Clarify here or in the Definitions section what constitutes a “direct abutter”. Would this include all abutters within 300 feet of the property line of the proposed cannabis establishment?? Abutters across the street? Only abutters that share a property line?



## Section 2: General Requirements of a Cannabis Licensee

**2.00 : Non-Transferability:** No License issued by the BCB may be transferred nor may any percentage of direct or indirect beneficial interest ownership in a License or control over the Licensee entity be transferred without the prior written approval of the BCB. Failure to adhere to this provision may result in disciplinary action including but not limited to the suspension or revocation of the License and the ineligibility to apply for a future License.

**Commented (DU7):** Similar to the Commission's regulations, these rules and regulations should allow for changes in ownership and control upon receipt of prior approval by the BCB. It is unreasonably impracticable to prohibit all transfers or changes in ownership or control, especially since cannabis businesses do not have access to traditional loans from financial institutions and have difficulty obtaining investment and financing.

**2.01 : Requirement of a Host Community Agreement:** No Licensee shall be permitted to continue operations upon the expiration or revocation of the host community agreement between the Licensee and the City of Boston.

**2.02 : Annual Fee:** Each Licensee shall pay an annual fee in the amount equal to that of the annual fee for a Retail Package Store All-Alcoholic Beverages License.

**2.03: Annual Renewal:** The License issued by the BCB shall expire annually on December 31st at 11:59pm. The License must be renewed with the BCB by the last business day of the preceding October. In order to renew the License, the Licensee must file the completed application on the form to be prescribed by the BCB which shall include an attestation signed under the pains and penalties of perjury stating that there has been no change to the previously disclosed and approved ~~direct and indirect beneficial interest~~ persons or entities having direct or indirect ownership or control holders and that the Licensee has the legal right to occupy the Licensed Premise.

**2.04 : Posting of License:** The License issued by the BCB must be posted conspicuously within the Licensed Premise in a location easily viewed by the public.

**2.05 : Posting of Other Licenses and Permits:** All other licenses, permits, and certificates regarding the Licensed Premise shall be conspicuously posted within the Licensed Premise in a location easily viewed by the public including but not limited to the Certificate of Occupancy and Fire Assembly Permit, as applicable.

**2.06 : Rules and Regulations:** The Licensee shall ensure that a copy of these Rules and Regulations is kept on the Licensed Premise at all times and is available as a reference for employees. The Licensee is responsible for ensuring that all employees, whether directly or indirectly employed by the Licensee, and volunteers read, understand, and comply with these Rules and Regulations.

## Section 3: Operational Requirements

**3.00 : Security and Operations Plan:** Prior to commencing operations, the Licensee shall submit to the BCB in writing a security and operations plan (the "Security and Operations Plan") for its review and approval. The Licensee shall not commence operations prior to receiving the written approval of the BCB of the Security and Operations Plan. A copy of the Security and Operations Plan must be kept at the Licensed Premise at all times. It is the responsibility of the Licensee to ensure that all employees have reviewed, understand,

and will abide by the Security and Operations Plan.

**3.01 : Admission to the Licensed Premise**

- A. **Discrimination:** No Licensee shall permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, sexual preference, physical or mental disability, ancestry, or on account of any other classification identified in the Boston Human Rights Ordinance relative to the admission or treatment of persons from the general public or employees at the Licensed Premise.
- B. **Age of Patrons:** No Licensee shall permit any individual on the Licensed Premise not of the legal age of twenty-one (21), except that registered medical marijuana patients under the age of 21 with a valid Medical Use of Marijuana registration card issued by CCC may enter the Licensed Premise for the purpose of purchasing medical marijuana and marijuana products from a cannabis establishment licensed by the CCC as a Medical Marijuana Treatment Center.
- C. **Intoxicated or Unruly Patrons:** No Licensee shall permit any individual on the Licensed Premise who appears to be intoxicated or unruly and may evict such an individual from the Licensed Premise. In the event of any intoxicated or unruly individual, the Licensee shall offer assistance when possible and shall call the appropriate authorities.

**3.02 : Hours of Operation**

- A. **Closing Hour:** No Licensee shall allow any individual, guest, or employee who is not presently on-duty, or performing authorized and necessary services for the maintenance and compliant operation of the facility on behalf of the Licensee. on the Licensed Premise after the closing hour posted on the License or prior to the opening hour posted on the License.
- B. **Employees:** Employees, whether directly or indirectly employed by the Licensee, may be permitted on the Licensed Premise after hours only if said employee is actively engaged in cleaning, making emergency repairs, providing security, or opening or closing the Licensed Premise in an orderly manner. No other persons, friends, or relatives may be on the Licensed Premise with said employee during hours when the public is not permitted, except for authorized vendors, service providers and other contractors necessary for the maintenance and compliant operation of the facility.

**3:03: Capacity:** No Licensee shall permit entrance to the Licensed Premise by more persons than the total capacity approved by the BCB and listed on the License. Said capacity is to include the number of patrons, employees, and any other individuals in the Licensed Premise at any given time.

**3.04 : Good Standing:** No License shall be issued nor shall any License be renewed or

considered in good standing unless the Licensee entity and the Licensed Premise comply with all statutory requirements including all applicable building codes and fire, health, safety, payment of taxes, and other City, state, or federal regulations and laws.

**Commented [DU8]:** See comment above re: exception for violations of federal cannabis laws.

### 3.05 : Operation and Supervision of the Licensed Premise

- A. **Approved Floor Plan:** The Licensed Premise shall conform to the floor plan approved by the BCB and the description of the Licensed Premise listed on the License. Changes to the floor plan or description shall not be made without the prior written approval of the BCB and, to the extent necessary, by the CCC.
- B. **Conditions:** The Licensed Premise shall be kept in a clean and sanitary condition, including the area immediately adjacent to the Licensed Premise to the extent the Licensee has the authority and reasonable ability to maintain such area.
- C. **Supervision:** The Licensee shall ensure a high degree of supervision is exercised over the conduct at the Licensed Premise at all times and will be held accountable for any violations occurring at the Licensed Premise to the extent such violations are caused by the negligence of the Licensee or its employees and visitors.
- D. **Monitoring the Adjacent Area:** The Licensee shall monitor the area adjacent to the License Premise and act reasonably and diligently to deter loitering, illegal activity, improper disposal of trash, and any other behavior having a negative impact to the surrounding community.
- E. **Lines:** The Licensee shall monitor any line or queuing outside the License Premise to ensure no public right of way is impeded or blocked.
- F. **Gathering and Congregating:** No Licensee shall allow any area outside the Licensed Premise to be used as a gathering place for patrons without the prior written approval of the BCB. No Licensee shall install any benches, seating, or other areas outside the Licensed Premise that encourage gathering or congregating without the prior written approval of the BCB.
- G. **Dispersal:** No Licensee shall allow any patrons to congregate after the closing hour and shall make all reasonable efforts to disperse any individuals outside of the Licensed Premise.
- H. **Obstructing Entrances/Exits:** No Licensee may lock, obstruct, or in any way block main and emergency entrances/exits while any patrons are in the Licensed Premise.
- I. **Notifying the Appropriate Authorities:** Licensee shall immediately notify the appropriate authorities of any known or suspected violation of these Rules or Regulations or any other City, state, or federal rule, regulation, or law that has taken

**Commented [DU9]:** There are numerous municipal and state authorities, so specify which authorities must be immediately notified so Licensees have clarity. The BCB? The Boston Police Department? The CCC?

**Commented [DU10]:** See comment above re: violation of federal cannabis laws.

place on ~~or near~~ the Licensed Premise whether said violation is related or unrelated to the business of the Licensee.

**Commented [DU11]:** Clarify the scope of this provision. This could be interpreted to mean that Licensees are responsible for notifying authorities of suspected violations of ALL laws and regulations and rules, even those that are not related to Licensee's business or reasonably close by.

### 3.06 : Inspection of the Licensed Premise

- A. **Inspection by the Agents of the BCB:** Every Licensee shall be subject to inspections by any agent of the BCB which shall include the appropriate authorities and representatives of any City department. In the event of any employee unreasonably hindering, delaying, or otherwise interfering with any inspection by an agent of the BCB or failing to cooperate with the same, the BCB, at its discretion, may take disciplinary action against the Licensee.
- B. **List of Employees:** Every Licensee shall maintain a current list of all employees, whether directly or indirectly employed by the Licensee, available for inspection at the Licensed Premise upon the request of any agent of the BCB.
- C. **Signaling:** No Licensee or any employee may utilize any device or equipment for the purpose of signaling to employees that an agent of the BCB is present.

3.07 : **Non-Use:** No Licensee shall temporarily or permanently suspend or cease operations at the Licensed Premise without obtaining the prior written approval of the BCB, which shall not be unreasonably withheld, delayed or conditioned.

### Section 4: Business Arrangements of the Licensee

~~4.00 : Beneficial Interest Holders~~Persons or Entities with Direct or Indirect Ownership or Control: No Licensee shall permit any person or entity to have a direct or indirect ~~financial or beneficial interest ownership in or control over~~ the Licensee entity or to receive any revenue from the business or to manage the Licensed Premise other than the persons properly approved of by the BCB and the employees of the Licensee.

4.01 : **Individuals in Position of Authority:** No Licensee shall permit any person to work at the Licensed Premise or to hold themselves out as a person in a position of authority at the Licensed Premise except for those persons who are disclosed and approved persons or entities ~~with direct or indirect beneficial interest holders ownership or control~~ or who are salaried employees for whom payroll records are available.

4.02 : **Leasing of the Licensed Premise:** No Licensee shall lease out any part of the Licensed Premise or any part of the business without the prior written approval of the BCB.

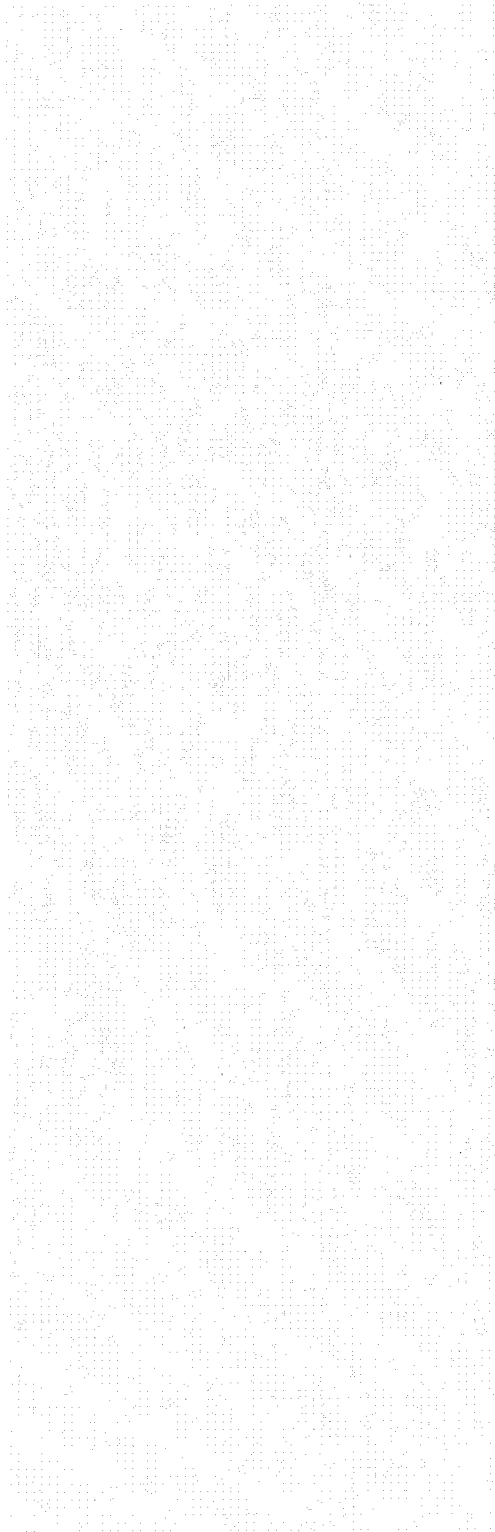
### Section 5: Regulation of the License

5.00 : **Cause for Revocation, Suspension, Modification, or Fine:** Any License issued by the BCB may be modified, suspended, revoked, or issued a fine in lieu of the forgoing upon notice and a public hearing before the BCB should the BCB determine there has been a violation by the Licensee of any of these Rules and Regulations or any rule, regulation, law, or other guidance issued by the BCB or City, state, or federal government.

**Commented [DU12]:** See comment above re: federal cannabis laws

**5.01 : Notice:** Notice of such a hearing shall be delivered to the Licensed Premise via hand delivery or certified mail at least two (2) weeks prior to the public hearing.

**5.02 : Written Decision:** A written decision shall be issued within thirty (30) days upon a finding by the BCB that a violation has occurred stating the specific reasons for the BCB's findings.



Greetings,  
Thank you for your attention.

I am a verified Economic Empowerment applicant for Cannabis establishment licensing in Massachusetts. Please consider the following to ensure an equitable and healthy licensed local Cannabis market.

Host Community Agreements should be made available to state-verified equity businesses without the prohibitive and corruption encouraging requirement to first control expensive property or location.

Host Community Agreements that do not require a location should be extended to Economic Empowerment and Social Equity businesses through a clear and straightforward supportive process.

The Cannabis Control Commission does not require municipalities to insist on expensive "site-control" before issuing a Host Community Agreement or the promise of one, to an equity business. For the City of Boston to insist on such expensive and effectively prohibitive control from state-verified equity businesses before the promise of a host community agreements, is at the least counterproductive.

In fact municipalities have the right to waive host community agreements altogether for any or all applicants, and simply provide such in writing.

The Boston Cannabis Board has an opportunity to repair the damaged system for issuing local host agreements that has prevented full market participation for state-verified equity businesses. Please be bold in actions to support the healthy growth and repair of our city.

I look forward to working with the City of Boston to continue to build a healthy and equitable local Cannabis industry.

Thank you.

Sieh Samura

**Andrea Pearce, Public Comments on**  
**DRAFT Boston Cannabis Board Rules & Regulations**

**Section 1: General Rules of the BCB**

Section 1.05: Buffer Zone

BCB states in A. Overview, “any cannabis establishment shall be cited at least one-half mile or 2,640 feet from another existing cannabis establishment” then states in B. Definitions, “existing cannabis establishment” is defined as a licensee which has been granted a license by the BCB.

Does this overrule the existing city buffer zone? The BCB has not issued any licenses yet so there could not be no buffers at this time from existing establishments according to the verbiage written the way that it is. Does this mean there is now no buffer in place until the BCB begins giving out licenses? Does this mean that there will be 2 buffers in place now so that a location can not be in the ½ mile from current operational establishments and then and other half mile distance from any establishment that has a BCB license? This needs much more clarification and consideration.

D. Additional Requirements:

Additional requirements state that 1 of those requirements will be a support letter from each direct abutter of the proposed location. There is very little or no chance of this being possible to obtain, as not all businesses or owners of direct abutting locations are in favor of a cannabis establishment. And the letter has to be of “support”, it cannot be of non-opposition, which would be a better requirement but still could be impossible. This regulation could also impose corruption whereas, one company may want a location and pay the abutters of another to not give letters of support to that location so they can obtain their other location. Regulations should not be solely contingent on the public giving support as the public can be skewed in one direction or another by other parties.

**Section 3: Operational Requirements**

3.00: Security and Operations Plan:

Security and operations plans have to be submitted for review and approval by the BCB. That is a severe breach of security having the security plans public knowledge versus the review and approval by Boston police and Boston fire ONLY, as they are the only ones who should have access to the security plans. Asking for a summary is acceptable and reasonable and it currently the standard practice at the CCC.

### 3.05: Operation and Supervision of the Licensed Premise

#### E. Lines

This should also clearly state that they cannot impede or block other local businesses or residences and any lines need to stay within the property line of the cannabis establishment and cannot go outside the property line.

#### F. Gathering and Congregating:

There is a State (CCC) regulation that customers cannot gather or congregate (loitering) outside of a cannabis establishment. BCB is stating “without prior written approval of the BCB”, however, the State (CCC) dictates no congregating outside of any establishment and if the BCB allows it, it could be considered loitering or on-site consumption, which is also unlawful at this time in the State and would need another State issued license if the location was to allowed congregating. Part of the law is listed under 935 CRM 500.110(1)(b), procedures to prevent loitering.

#### Section 3.07

This regulation should have stipulations regarding authority above the BCB such as the federal government, for example, if the government does a shut down or a shelter-in-place order again and the business needs to close immediately, it needs to do so according to the federal government laws, regulations and timing and cannot wait for the approval of the BCB before closing.

Additional note: The BCB uses the word “patron” as describing customers. Might I suggest using the word customer instead throughout, as a patron is more described and used in other licensing applications mostly for places where people come and congregate and “stay” for a length of time regularly, such as a bar, nightclub or restaurant, not a retail store. And if the BCB issues a license for anything other than a retail operation, there definitely should not be any “patrons” or customers at that establishment.



July 15, 2020

Boston Cannabis Board  
One City Hall Square  
Room 817  
Boston, MA 02201

Dear Chair Joyce and Commissioners,

As you know, a cornerstone of the City of Boston's cannabis permitting ordinance (*An Ordinance Establishing Equitable Regulation of the Cannabis Industry in the City of Boston*) was to establish meaningful access and fairness in the municipal licensing process for a diverse array of ownership interests, specifically locally and minority owned applicants, such that they might materially benefit from these newly legalized economic opportunities. We as a community should celebrate the important symbolism that the passage of this Ordinance represented. However, without urgent action by this Board, this Ordinance will not move beyond symbolism to meaningful outcomes. Communities directly harmed by the War on Drugs must at all times have priority access to open and operate businesses in this emerging market.

Pursuant to 8-13.3 Boston Equity Program, an "Equity Applicant" for the purposes of the City of Boston's cannabis permitting ("Boston Equity Applicant") is defined as an applicant that:

"at least 51% of its ownership meets at least 3 of the following criteria:

- 1) Person resided in area of disproportionate impact for 5 of last 10 years;
- 2) Boston resident for past 5 years who was either arrested for conviction for possession, sale, manufacturing, or cultivation of marijuana between 1971-2016 or a child of someone who was arrested for conviction for possession, sale, manufacturing, or cultivation of marijuana between 1971-2016;
- 3) Boston resident for at least the past 7 years;
- 4) Person who is Black, African American, Hispanic, Latino or Asian descent;
- 5) Person whose annual household income is at or below 100% area median income;
- 6) Person who was certified by CCC as an EE applicant and who is a Boston resident for at least one of the last three years."

However, notably, the Ordinance does not resolve whether or not each member of the ownership which in aggregate make up the required 51% equity are required to *each* meet three of the five criteria, or if in whole, 51% of the ownership must meet three of the five criteria. This distinction is important and the outcome of this decision will have significant policy implications for the City. Unfortunately, the Board's proposed regulations do not provide the needed clarity on this matter.

While requiring that each member making up the 51% ownership interest meet three of the five criteria may seem like a more attractive, progressive and equity-forward approach, such a policy will have the unintended result of severely limiting the number of viable Boston Equity Applicants, possibly preventing the City from both meeting its 1:1 equity obligations as outlined in the Ordinance and supporting draft regulations, as well as the City's statutory obligation to site at least 56 marijuana retailers pursuant to Section 3 of MGL Chapter 94G (*at least 20% of 279 Section 15 liquor licenses*) without conducting a new city-wide vote. Given Boston's articulated goal of being the Nation's leader in economic empowerment within the cannabis industry, Boston must embrace policies that ensure strong, viable and successful equity applicants. At this time the Board is poised to take an approach to equity applicant qualification that allows the greatest inclusivity of disproportionately and historically marginalized communities. This will be necessary and critical to being the national leader in this area. The Board knows money is a barrier, accessing capital by any applicant, equity applicants most of all, is the number one barrier to succeeding within the legalized cannabis market. The City should be diligent to not add additional and unnecessary complications or layers of subjective tests that prevent

my community and the already marginalized populations from organizing business structures that allow for the needed capitalization to be successful.

I ask that careful consideration is made to the Board's approach to regulating this new industry to ensure the true intent of an equitable and inclusive industry is realized. Respectfully I ask that the Board must eliminate unnecessary and punitive burdens, such as the ½ mile and 500-foot school buffers, and instead implement principles of community self-determination. Here for example the 500-foot school buffers all but eliminate those aspiring business owners in Roxbury and Dorchester based upon the current regulations which will serve to be punitive. The Board must carefully draft the regulations to remove all punitive burdens on minority equity applicants as their participation and success in this emerging market is paramount to our City's success.

Thank you for your time and consideration.

Very truly yours,

Linda Champion  
Attorney | Real Estate Broker | Notary Public  
[iamlindachampion@gmail.com](mailto:iamlindachampion@gmail.com)  
Twitter @AttyChamp  
617-615-9179

Good Afternoon,

My name is Damond Hughes I am a state certified economic empowerment applicant. I have a pending application with the city of Boston at 112-114 Queensberry st in the Fenway awaiting a community outreach meeting. I am currently in the process of gathering the necessary paperwork so I am eligible for the city of Boston's Social Equity Program. I have the following concerns regarding the current draft regulations I hope can be changed or amended:

-Applicants should not have to receive written approval from abutters. This would create an unfair disadvantage for Economic empowerment groups and Social Equity Participants. It could create an environment for discrimination for applicants of color and put these groups at an economic disadvantage to the RMDs and deep pocket general applicants. Also landlords could also have a conflict of interest as a landlord could be working with our applicants in a neighboring location. To my knowledge no other municipalities require this and Boston should remove this from their regulations.

-State certified Economic Empowerment applicants should be included in the 1:1 designation along with the Boston Equity applicants. There are some Economic Empowerment applicants that should be able to operate in the Boston Cannabis space. As the cost of living has risen it has become challenging for many individuals and families to continue to afford the high cost of living in the city of Boston. Gentrification has changed the demographic of our city the last 10yrs this should be considered and accounted for. If they have been certified by the state as an economic empowerment they should be allowed to participate in the 1:1 roll out along with the Boston Equity applicants and receive priority status . This could potentially keep the process moving at a much steadier pace with a larger applicant pool.

-Economic Empowerment applicants and Social Equity participants should be able to own multi cannabis business locations in the city of Boston. If the board is following the guidelines of the liquor industry. We should use the Fernandez family as an example of a intiaty that owns and operates at several liquor stores under the name of Brothers, Fernandez and Happy Liquors in Boston and many more communities throughout the commonwealth. The state and the city of Boston have not put restrictions on their expansion or in the marketplace. The same restrictions put on liquor license owners by the state & city should also be on cannabis businesses as well regarding the number of locations allowed.

-SE and EE applicants should be able to break the buffer zone between Cannabis businesses. RMD's and General applicants have already created buffer zones in the city of Boston securing prime locations throughout the city of Boston. The city of Boston will have challenges fitting 52 licenses within the city of Boston without allowing variances to EE and SE groups to operate in prime locations in the city of Boston. The buffer on schools is necessary and I totally agree with, however, the buffers between cannabis businesses should be lifted for EE and SE groups. Cambridge has adopted this strategy and you will see in their roll out for recreational cannabis in Harvard and Central Squares.

I truly appreciate the work and consideration the board has put into these regulations. I look forward to being before this board sometime soon as an applicant. I have attached some information also about my proposed location. Thank you for your time.

Best,

Damond

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**Damond Hughes**

Licensed Real Estate Salesperson

126 Newbury St, 5th Floor

Boston, MA 02116

m: 617.637.7171



Downtown Boston  
Business Improvement District  
Corporation

July 15, 2020

Boston Cannabis Board  
One City Hall Square, room 817  
Boston, MA 02201

Dear Members of the Boston Cannabis Board:

Thank you for the opportunity to comment on the draft Rules and Regulations and for the work of the Boston Cannabis Board.

On behalf of the Downtown Boston Business Improvement District I am writing to reiterate our strong support of the Boston Zoning Code Article 8 which specifically states that “any cannabis establishment shall be sited at least one-half mile or 2,640 feet from another existing cannabis establishment.” For purposes of the licensure of cannabis establishments in the City of Boston this creates a buffer zone between cannabis establishments (the “Buffer Zone”). Therefor we are asking that no changes be made relating to Article 8 of the Boston Zoning Code.

The Downtown Boston Business Improvement District (BID) was created by property owners committed to achieving the district's full potential as a premier and vibrant destination. Our mission is to significantly improve the experience of all who live, work, visit, go to school or shop in the Downtown Boston BID by providing supplemental services to keep the streets and sidewalks clean, upgrade the aesthetic appearance of the district, and make people feel welcomed and safe, promoting and fostering an energetic and thriving business climate in the area, and serving as the voice and advocate for the district. Currently, our Ambassadors and staff are doing all that we can in providing additional services to support our members and the general public regarding policies and procedures in place to address the COVID-19 pandemic.

Thank you for considering our comments and please let me know if you have any questions.

Sincerely

Rosemarie E. Sansone  
President and CEO

July 14, 2020

Boston Cannabis Board  
Boston City Hall  
One City Hall Plaza  
Boston, MA 02201

Re: Comment Letter Draft Rules and Regulations \* *Comments by the MPPNA*

Dear Boston Cannabis Board Members:

The Midtown Park Plaza Neighborhood Association (MPPNA) held a virtual meeting on July 13, 2020, to discuss the Boston Cannabis Board draft rules and regulations. We thank you for providing the association with the opportunity to comment on the draft rules and regulations.

**Buffer Zone**

Article 8 of the City of Boston Zoning Code states, “that any cannabis establishment shall be sited at least one-half mile or 2,640 feet from another existing cannabis establishment and at least 500 feet from a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.” *The MPPNA members request any childcare centers, after school programs, extended day care or any other K-12 programs should be included in the buffer zone regardless if the organization owns the property or is a tenant.*

The intent of the buffer zone was to prevent a singular neighborhood from becoming oversaturated with cannabis establishments, while also providing patients and customers better access to facilities as they would be located across the City and not only in one location. *The MPPNA members ask what is the motivation behind a buffer zone if you are allowing applicants to apply within the ½ mile radius?*

**Ownership**

*The MPPNA members would like to see more transparency as it relates to the ownership of the cannabis establishments. If multiple owners, a corporation, or a Limited Liability Company (LLC) is listed as the owner(s), the association would like to have the individual names listed on the application.*

**Beneficial Interest Holders**

Under Section 4 of the Boston Cannabis Board draft Rules and Regulations, it states “No Licensee shall permit any person to have a direct or indirect financial or beneficial interest in the Licensee entity or to receive any revenue from the business or to manage the Licensed

Premise other than the persons properly approved of by the BCB and the employees of the Licensee” *The MPPNA members would like further clarification on what name is on the cannabis license as recorded at the City. Is the license in the owner’s name, the manager’s name, or landlord of the business?*

Sincerely,

Members of the Midtown Park Plaza Neighborhood Association

COMMENT IN REFERENCE TO CANNABIS BOARD DRAFT OF RULES AND REGULATIONS :

I am in support of an applicant with a zoning conflict requiring the support of direct abutters as outlined in section D of the draft rules and regulations.

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This message was sent using the contact form on Boston.gov. It was sent by Lauren Thompson from [thompsonlauren83@gmail.com](mailto:thompsonlauren83@gmail.com). It was sent from <https://www.boston.gov/news/city-holding-comment-period-public-hearing-boston-cannabis-board-draft-rules-and-regulations>.  
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Dear BCB:

Please add the following to your rules and regulations, I strongly suggest:

1. The 50% scoring requirement for applicants is far too low, a score that only satisfies half of any goal is a failure. These licenses are highly coveted, applicants can be plausibly expected to do demonstrate a larger commitment to the "quality" and "manner" of their businesses especially when they could become such a positive force in the neighborhood. The barely passing grade gives a bad perception of this industry as nothing more than a new way to put drugs into the neighborhood.
2. There needs to be clear rules about where these stores get their employees, if you don't require 75% of the people working in these places to be from the impacted neighborhoods, they won't be. Women, minorities and people of color in Boston need good jobs and hopefully rules that require hiring local people will increase the positive impact these places generate.
3. I think letters of support for these applications is good but I would also suggest that all voices should be considered by this board, for too long our voices haven't been heard at all when it comes to economic development in Boston. Whatever people or groups who have a stake in the neighborhoods want to say should count towards the Board's scoring

And lastly, I have read that the single biggest problem that faces small "mom and pop" cannabis operators is a lack of starter money to get these businesses going. If the board truly wants equity and is going to be licensing well-funded national operators anyway, there are many many creative financial ways the Board can use the desire of big operators who want to gain entrance into the Boston market as leverage to help folks from the neighborhood to get up and running.

Thanks and stay safe,

K.McGaffigan  
Boston, MA

Hello,

Please find the attached comments on the Boston Cannabis Board's Rules and Regulations on behalf of a commenter that wished to remain anonymous. Below, please find a message from the commenter.

*Dear Boston Cannabis Board:*

*Thank you for the opportunity to comment on the BCB's draft rules and regulations. We are licensed in Massachusetts to cultivate, process, and dispense medical and adult use marijuana. We respectfully submit the following proposed changes (see attached redline/track changes) and comments to the draft rules promulgated by the BCB to provide necessary clarity and transparency to operators who seek to become licensed in the City of Boston. Our proposed changes seek to balance the aims of the draft rules with the business-related strains operators will have to contend with once these rules take effect.*

*Once again, thank you for the opportunity to comment on these draft rules.*

--

**Rebecca Rutenberg**

*Director of Strategic Affairs*

**Vicente Sederberg LLP**

2 Seaport Ln., 11th Floor

Boston, MA 02210

Cell: 610-675-5958

[Rebecca@VicenteSederberg.com](mailto:Rebecca@VicenteSederberg.com)

[VicenteSederberg.com](http://VicenteSederberg.com)

# **DRAFT**

## **BOSTON CANNABIS BOARD** **RULES AND REGULATIONS**

**Message from the Boston Cannabis Board (the “BCB”):** These draft rules and regulations are intended as a framework for public comment and discussion. The goal of promulgating rules and regulations is to provide a clear, predictable, and transparent process for both applicants and other interested and impacted parties. The BCB looks forward to a robust discussion in the coming weeks as these draft rules and regulations develop based on public comment. Any questions regarding these draft rules and regulations or the process should be directed to [cannabisboard@boston.gov](mailto:cannabisboard@boston.gov) or (617) 635-4170.

### **Introduction/Role of the Boston Cannabis Board**

Established pursuant to an ordinance mandating equitable regulation of the cannabis industry in the City of Boston (the “Ordinance”) and an executive order relative to the composition of the Boston Cannabis Board (the “Order”), the Boston Cannabis Board (the “BCB”) is charged with granting licenses (the “ License” or “ Licenses”) to applicants (the “Applicant” or “Applicants”) for a cannabis establishment within the City of Boston while ensuring Licenses are granted in such a manner so as to ensure equity, quality, and community safety. Specifically, the BCB is the siting authority for such establishments evaluating the proposed time, place, and manner in which these establishments are approved, open, and operate.

The BCB aims to issue Licenses in a way that ensures equity both in the distribution of Licenses among qualified applicants in those communities that have been disproportionately impacted by the prior legal prohibition of cannabis and enforcement of the same, as well as to ensure that Licenses are equitably sited throughout the City of Boston. The BCB is committed to providing a clear, predictable, and transparent process for businesses seeking a License.

The BCB is the regulatory authority at the local level overseeing the operations of establishments exercising a License (the “Licensee” or “Licensees”) and holding disciplinary hearings regarding any alleged violation of any City, state, law, rule, or regulation occurring at the licensed premise (the “Licensed Premise”).

The BCB does not have the authority or ability to negotiate host community agreements. These agreements are negotiated between the Office of Emerging Industries and the respective Licensee and will incorporate, among other items, information and conditions contained in the

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**Commented:** Will the Boston Public Health Commission still have regulatory authority over medical cannabis establishments in the City of Boston?

written decision of the BCB granting a License. No Applicant may enter into a host community agreement without the approval of a License by the BCB.

**Commented:** We ask that the Board clarify whether licensees can negotiations begin while the application with the BCB is in process?

The Cannabis Control Commission (“CCC”) is the state authority charged with approving applicants to operate a cannabis establishment in the Commonwealth pursuant to state law. As such, the CCC considers all cannabis establishment applications under a thorough and diligent review process. The municipal review and approval conducted by the BCB is one of the many pieces that comprise a successful application for licensure by the CCC. Thus, while review provided by the BCB serves a vital role in ensuring an equitable, quality, and safe cannabis industry in our communities, the BCB is not the sole authority to grant permission to cannabis establishments to open for business in the City and approval by the BCB does not guarantee the success of an application to the CCC.

**These rules and regulations (the “Rules and Regulations”) may be amended from time to time by the BCB pursuant to all applicable City, state, and federal requirements.**

**Index**

To be completed.

**Definitions**

Unless otherwise defined in these Rules and Regulations any capitalized term shall have the meaning ascribed to it by the CCC.

**Section 1: General Rules of the BCB**

**1.00: Overview of the BCB**

- A. **Composition:** The BCB is an independent board appointed by the Mayor and consisting of the Chairman and four (4) commissioners each having a term of two (2) years. Of the five (5) members of the BCB, the following areas of experience and expertise must be represented: public health policy; creating economic development strategies and minority business development strategies within under-resourced communities; experience working in public safety; and the Chairman of the Licensing Board for the City of Boston.
- B. **Staff:** The BCB is staffed by the Executive Secretary who shall not be a voting member of the BCB and shall provide legal and administrative support to the members of the

BCB. The Executive Secretary shall serve as the keeper of the record, facilitate hearings before the BCB, prepare written decisions on applications or disciplinary decisions to be executed by the members, and provide additional support as necessary. Additional staff shall also be provided to assist the BCB in its duties.

### 1.01 : Hearing Schedule

- A. **Transactional Hearings:** The BCB shall meet on the second and third Wednesday of the month. Hearings conducted on the second Wednesday of the month are for new applications and proposed changes to existing Licensees. Hearings conducted on the third Wednesday of the month are the BCB's voting hearing on items heard the prior Wednesday. Should there be no items to be heard by the BCB in a particular month hearings may be cancelled at the BCB's discretion.\*
- B. **Disciplinary Hearings:** The BCB shall meet on Tuesdays as necessary to hold a hearing on any pending Licensed Premise inspection notice or other disciplinary matter regarding an existing Licensee that is in violation of any of these Rules or Regulations, terms or conditions of its existing License, terms and conditions of the HCA, and any other City, state, or federal law, rule, or regulation. Such matters will be voted on by the BCB at the following regularly scheduled voting hearing.\*

\*The hearing schedule may be amended at the discretion of the BCB. All hearings and notices are subject to open meeting law requirements.

### 1.02 : Application and Hearing Process

- A. **Application Process:** Upon the filing of a complete application with the BCB, said application shall be time stamped and scheduled for a public hearing to be held no more than thirty (30) days from the receipt of said application. ~~The BCB shall not time stamp or schedule an incomplete application for a public hearing. If, after a preliminary review of a submitted application by the Executive Secretary, the BCB determines that a submitted application is incomplete and/or requires additional information, the BCB shall issue a Request for Information (RFI) to the applicant and give the applicant an opportunity to submit additional information.~~ In order to provide clarity and predictability applications will be scheduled for a hearing in the order in which they are received. Notwithstanding the foregoing, should the BCB receive a complete application from a non-equity applicant and any hearing on said non-equity application could result in a violation of the 1:1 equity to non-equity ratio mandated by the Ordinance, a hearing on said non-equity application shall not be scheduled until it can be done without exceeding the required ratio.

**Commented** See comment above re: exception for violations of federal cannabis laws.

**Commented** We ask that the Board clarifies that the BCB's authority to seek disciplinary action does not supersede the authority of the CCC.

**Commented** We ask that the Board clarifies this section by setting forth more information concerning the disciplinary hearing process including any rules, any discovery practices, and other pertinent information including any appeals process.

**Commented:** If an application is determined to be incomplete, the applicant should not be automatically rejected. Just like the CCC's licensing process, the BCB should issue a Request for Information (RFI) to an applicant that submits an incomplete application and give the applicant an opportunity to submit additional information to ensure a complete application submission.

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In order for an application to be placed on the BCB's hearing docket for the second Wednesday of the month, a complete application must be filed with the BCB by the last business day of the preceding month.

#### A. Application Requirements

This section to be completed pursuant to the Ordinance.

#### B. Disclosure of Persons or Entities Having Direct or Indirect Ownership or Control:

All direct and indirect business owners, controlling persons, close associates and investors direct or indirect beneficial interest holders in a proposed Licensee entity must be disclosed in full to the BCB regardless of percentage of direct or indirect ownership or operational control. Failure to adhere to the foregoing may result in disciplinary action including, but not limited to, the suspension or revocation of any License issued by the BCB and ineligibility to apply for a License in the future. The foregoing applies to any and all information submitted with the Application and any supplemental information requested by the BCB or any City department including that related to the certification of an equity applicant.

#### 1.03 : Evaluation of New Applications

- A. **Criteria:** An application for a License shall be evaluated based on the criteria established in Section 8-13.8 of the Ordinance. Each member of the BCB will complete a score sheet (the "Score Sheet") for each application based on the application and the presentation before the BCB at the public hearing. The form of the Score Sheet shall be agreed upon by all active members of the BCB and such form may be amended from time to time. Each Score Sheet will become a part of the public record.
- B. **Minimum Score:** A minimum score of fifty percent (50%) of evaluation criteria items two (2) through five (5) will be required in order for the BCB to vote to approve or conditionally approve an application.
- C. **Deliberations:** All deliberations of the BCB shall be conducted in accordance with the open meeting law at the BCB's monthly Voting Hearing on the record.

#### 1.04 : Equity Program

- A. **Ratio of Certified Equity Licensees to Non-Equity Licensees:** Pursuant to Section 8-13.3 of the Ordinance, the "City of Boston shall maintain an equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants." In order

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**Commented:** "Direct and indirect beneficial interest holders" is not defined in either the City's Ordinance or the CCC's regulations. The Ordinance requires disclosure of "business owners, controlling persons, close associates, and investors", and "controlling persons", "close associates" and "investors" are defined terms.

Note that the CCC requires disclosure of all "Persons or Entities Having Direct or Indirect Control", which is defined in 935 CMR 500.002. See [https://mass-cannabis-control.com/wp-content/uploads/2019/11/Fall\\_2019\\_Adult\\_Regs\\_500.pdf](https://mass-cannabis-control.com/wp-content/uploads/2019/11/Fall_2019_Adult_Regs_500.pdf)

There should be clarity and consistency in ownership and control disclosures across the Ordinance, the BCB's Rules and Regulations and, ideally, the CCC's regulations.

**Commented:** We ask that the Board clarifies what information will be required from these individuals? Will an exception be made for publicly-traded companies who are unable to identify each individual shareholder?

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to ensure the 1:1 ratio of certified equity Licensees to non-equity Licensees, the BCB shall not hold a hearing on any application for a License that, upon the granting of the License, would result in more non-equity than equity Licensees. This may result in complete applications filed by non-equity applicants not being scheduled for a hearing until such time as a certified equity applicant may be scheduled on the same hearing docket. Such non-equity applicants will be placed on a waiting list and will be heard in the order in which the complete application was filed with the BCB pursuant to the conditions contained herein.

- B. **Certification of an Equity Applicant:** In order to ensure compliance with Section 8-13.3 of the Ordinance, the City of Boston Office of Economic Development (“OED”) shall review the proposed direct and indirect ownership of any proposed Licensee entity to determine whether the entity qualifies as an equity applicant. Prior to a hearing before the BCB, a designated staff member of OED shall certify in writing whether the applicant qualifies as an equity applicant. The designated staff member shall also testify at the hearing before the BCB regarding the applicant’s equity status. Such testimony and written certification shall be incorporated into the public record. Notwithstanding anything herein to the contrary, existing cannabis establishments and applicants who filed a Marijuana Establishment Application with the City of Boston prior to the effective date of the Ordinance (February 1, 2019), shall be exempted from this requirement.

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#### 1.05: Buffer Zone

- A. **Overview:** The Boston Zoning Code Article 8 specifically states that “any cannabis establishment shall be sited at least one half mile or 2,640 feet from another existing cannabis establishment.” For purposes of the licensure of cannabis establishments in the City of Boston this creates a buffer zone between cannabis establishments (the “Buffer Zone”).
- B. **Definitions:** “Existing cannabis establishment” is defined as a Licensee which has been granted a License by the BCB. This includes a License to operate a retail facility, a product manufacturer facility, a cultivation facility, a delivery-only facility, an independent testing facility, or any other type of cannabis establishment approved and regulated by the BCB and CCC. Each establishment that holds a valid medical or adult-use Host Community Agreement with the City of Boston that was executed prior to the first hearing of the BCB and that has secured the necessary zoning relief for the underlying use shall be considered an existing cannabis establishment for purposes of the Buffer Zone.

Commented We ask that the Board clarifies precisely how the distance is measured.

Commented We ask that the Board clarifies how licenses are granted in the circumstances of two entities being considered by the Board on the same hearing date with proposed locations within the buffer zone.

C. **Applications within the Buffer Zone:** The BCB may, in its discretion, accept and hold a hearing on a complete application in accordance with these Rules and Regulations regardless of whether a Buffer Zone conflict exists. Should the BCB vote to grant a License to an applicant with a Buffer Zone conflict, the grant of the License shall be conditional and shall require the applicant obtain a variance from the Zoning Board of Appeals within one (1) year of the issuance of the BCB's written decision. Should the applicant fail to obtain a variance within one (1) year, the conditional grant of a License shall be rescinded at the BCB's discretion.

D. **Additional Requirements:** Any applicant for a License with a Buffer Zone conflict must provide the following to the BCB with its complete application in order to be scheduled for a hearing:

- Letter of support from the District City Councilor or the Mayor's Office of Neighborhood Services stating support for the applicant and acknowledging the Buffer Zone conflict.
- Letter of support from each direct abutter of the proposed location as recorded with the City's assessing department stating support for the applicant and acknowledging the Buffer Zone conflict.
- Applicant's statement explaining in particularity why the applicant should be granted a conditional License despite the Buffer Zone conflict addressing the following:
  - Special circumstances or conditions that apply to the proposed location;
  - Reasons of practical difficulty and substantial hardship explaining why the Buffer Zone conflict should not prevent the BCB from granting a conditional License;
  - How the BCB's grant of a conditional License would be in harmony with the intent of the Boston Zoning Code provision establishing the Buffer Zone; and
  - How the BCB's grant of a conditional License would not negatively impact the surrounding neighborhood.

E. **School Zone:** The process established herein for an applicant for a License with a Buffer Zone conflict does not apply to the statutory prohibition of a cannabis establishment within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades one (1) through twelve (12).

**Commented** Clarify here or in the Definitions section what constitutes a "direct abutter". Would this include all abutters within 300 feet of the property line of the proposed cannabis establishment? Abutters across the street? Only abutters that share a property line?

## Section 2: General Requirements of a Cannabis Licensee

2.00 : **Non-Transferability:** No License issued by the BCB may be transferred nor may any



ownership in a License or control over the Licensee entity be transferred without the prior written approval of the BCB. Failure to adhere to this provision may result in disciplinary action including but not limited to the suspension or revocation of the License and the ineligibility to apply for a future License.

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**Commented** Similar to the Commission's regulations, these rules and regulations should allow for changes in ownership and control upon receipt of prior approval by the BCB. It is unreasonably impracticable to prohibit all transfers or changes in ownership or control, especially since these businesses, particularly Economic Empowerment and Social Equity applicants, do not have access to traditional loans from financial institutions and need financing.

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**2.01 : Requirement of a Host Community Agreement:** No Licensee shall be permitted to continue operations upon the expiration or revocation of the host community agreement between the Licensee and the City of Boston.

**2.02 : Annual Fee:** Each Licensee shall pay an annual fee in the amount equal to that of the annual fee for a Retail Package Store All-Alcoholic Beverages License.

**2.03: Annual Renewal:** The License issued by the BCB shall expire annually on December 31st at 11:59pm. The License must be renewed with the BCB by the last business day of the preceding October. In order to renew the License, the Licensee must file the completed application on the form to be prescribed by the BCB which shall include an attestation signed under the pains and penalties of perjury stating that there has been no change to the previously disclosed and approved persons or entities having direct or indirect ownership or control and that the Licensee has the legal right to occupy the Licensed Premise.

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**2.04 : Posting of License:** The License issued by the BCB must be posted conspicuously within the Licensed Premise in a location easily viewed by the public.

**2.05 : Posting of Other Licenses and Permits:** All other licenses, permits, and certificates regarding the Licensed Premise shall be conspicuously posted within the Licensed Premise in a location easily viewed by the public including but not limited to the Certificate of Occupancy and Fire Assembly Permit, as applicable.

**2.06 : Rules and Regulations:** The Licensee shall ensure that a copy of these Rules and Regulations is kept on the Licensed Premise at all times and is available as a reference for employees. The Licensee is responsible for ensuring that all employees, whether directly or indirectly employed by the Licensee, and volunteers read, understand, and comply with these Rules and Regulations.

**Commented** We ask that the Board clarifies what is meant by "indirectly employed" and "volunteers" and whether this rule would require licensees to ensure vendors to read and understand the rules.

### Section 3: Operational Requirements

**3.00 : Security and Operations Plan:** Prior to commencing operations, the Licensee shall submit to the BCB in writing a security and operations plan (the "Security and Operations Plan") for its review and approval. The Licensee shall not commence operations prior to receiving the written approval of the BCB of the Security and Operations Plan. A copy of the Security and

Operations Plan must be kept at the Licensed Premise at all times. It is the responsibility of the Licensee to ensure that all employees have reviewed, understand, and will abide by the Security and Operations Plan.

### 3.01 : Admission to the Licensed Premise

- A. **Discrimination:** No Licensee shall permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, sexual preference, physical or mental disability, ancestry, or on account of any other classification identified in the Boston Human Rights Ordinance relative to the admission or treatment of persons from the general public or employees at the Licensed Premise.
- B. **Age of Patrons:** No Licensee shall permit any individual on the Licensed Premise not of the legal age of twenty-one (21), except that registered medical marijuana patients under the age of 21 with a valid Medical Use of Marijuana registration card issued by CCC may enter the Licensed Premise for the purpose of purchasing medical marijuana and marijuana products from a cannabis establishment licensed by the CCC as a Medical Marijuana Treatment Center.
- C. **Intoxicated or Unruly Patrons:** No Licensee shall permit any individual on the Licensed Premise who appears to be intoxicated or unruly and may evict such an individual from the Licensed Premise. In the event of any intoxicated or unruly individual, the Licensee shall call the appropriate authorities, as appropriate.

### 3.02 : Hours of Operation

- A. **Closing Hour:** No Licensee shall allow any individual, guest, or employee who is not presently on-duty, or performing authorized and necessary services for the maintenance and compliant operation of the facility on behalf of the Licensee. on the Licensed Premise after the closing hour posted on the License or prior to the opening hour posted on the License.
- B. **Employees:** Employees, whether directly or indirectly employed by the Licensee, may be permitted on the Licensed Premise after hours only if said employee is actively engaged in cleaning, making emergency repairs, providing security, or opening or closing the Licensed Premise in an orderly manner. No other persons, friends, or relatives may be on the Licensed Premise with said employee during hours when the public is not permitted, except for authorized vendors, service providers and other contractors necessary for the maintenance and compliant operation of the facility.

**Commented** To avoid a potential conflict with the CCC, we proposed the Board clarifies that the Board shall not impose any additional security requirements that would conflict with any state laws, rules, or regulations or any security or operations plan already approved by the CCC. As currently drafted, this provision would burden operators with obtaining approvals for their security and operations plans from two different regulatory bodies that could be in conflict.

**Commented** We propose that Board not require the authorities to be contacted unless appropriate, as the requirement to offer of assistance places an unnecessary burden on licensees

**Deleted:** offer assistance when possible and shall

**Commented** We ask that the Board clarifies whether any patients/customers who enter the premises before closing must complete any purchases and vacate the premises before the closing hour.

**3:03: Capacity:** No Licensee shall permit entrance to the Licensed Premise by more persons than the total capacity approved by the BCB and listed on the License. Said capacity is to include the number of patrons, employees, and any other individuals in the Licensed Premise at any given time.

**3.04 : Good Standing:** No License shall be issued nor shall any License be renewed or considered in good standing unless the Licensee entity and the Licensed Premise comply with all statutory requirements including all applicable building codes and fire, health, safety, payment of taxes, and other City, state, or federal regulations and laws.

Deleted: and  
Commented See comment above re: exception for violations of federal cannabis laws.

**3.05 : Operation and Supervision of the Licensed Premise**

- A. **Approved Floor Plan:** The Licensed Premise shall conform to the floor plan approved by the BCB and the description of the Licensed Premise listed on the License. Changes to the floor plan or description shall not be made without the prior written approval of the BCB and, to the extent necessary, by the CCC.
- B. **Conditions:** The Licensed Premise shall be kept in a clean and sanitary condition, including the area immediately adjacent to the Licensed Premise to the extent the Licensee has the authority and reasonable ability to maintain such area.
- C. **Supervision:** The Licensee shall ensure a high degree of supervision is exercised over the conduct at the Licensed Premise at all times and will be held accountable for any violations occurring at the Licensed Premise to the extent such violations are caused by the negligence of the Licensee or its employees and visitors.
- D. **Monitoring the Adjacent Area:** The Licensee shall monitor the area adjacent to the License Premise and act reasonably and diligently to deter loitering, illegal activity, improper disposal of trash, and any other behavior having a negative impact to the surrounding community.
- E. **Lines:** The Licensee shall monitor any line or queuing outside the License Premise to ensure no public right of way is impeded or blocked.
- F. **Gathering and Congregating:** No Licensee shall allow any area outside the Licensed Premise to be used as a gathering place for patrons without the prior written approval of the BCB. No Licensee shall install any benches, seating, or other areas outside the Licensed Premise that encourage gathering or congregating without the prior written

approval of the BCB.

- G. **Dispersal:** No Licensee shall allow any patrons to congregate after the closing hour and shall make all reasonable efforts to disperse any individuals outside of the Licensed Premise.
- H. **Obstructing Entrances/Exits:** No Licensee may lock, obstruct, or in any way block main and emergency entrances/exits while any patrons are in the Licensed Premise.
- I. **Notifying the Appropriate Authorities:** Licensee shall immediately notify the appropriate authorities of any known or suspected violation of these Rules or Regulations or any other City, state, or federal rule, regulation, or law that has taken place on or near the Licensed Premise whether said violation is related or unrelated to the business of the Licensee.

**Commented** There are numerous municipal and state authorities, so specify which authorities must be immediately notified so Licensees have clarity. The BCB? The Boston Police Department? The CCC?

**Commented** We also propose this section be clarified that a licensee is not responsible for the notification of authorities related to conduct that occurs outside of the licensed premises, as the provision as currently drafted is overly burdensome. Additionally, the term "near" is vague and licensees should not be responsible for conduct that occurs outside of the licensed premises.

**Commented** See comment above re: violation of federal cannabis laws.

**Commented** Clarify the scope of this provision. This could be interpreted to mean that Licensees are responsible for notifying authorities of suspected violations of ALL laws and regulations and rules, even those that are not related to Licensee's business or close

~~Deleted: take~~

**3.06 : Inspection of the Licensed Premise**

- A. **Inspection by the Agents of the BCB:** Every Licensee shall be subject to inspections by any agent of the BCB which shall include the appropriate authorities and representatives of any City department. In the event of any employee unreasonably hindering, delaying, or otherwise interfering with any inspection by an agent of the BCB or failing to cooperate with the same, the BCB, at its discretion, may initiate disciplinary action against the Licensee, according to the process described above.
- B. **List of Employees:** Every Licensee shall maintain a current list of all employees, whether directly or indirectly employed by the Licensee, available for inspection at the Licensed Premise upon the request of any agent of the BCB.
- C. **Signaling:** No Licensee or any employee may utilize any device or equipment for the purpose of signaling to employees that an agent of the BCB is present.

**Commented** Please see the above for comments regarding the need to clarify the disciplinary process.

**Commented** We propose that the term "indirectly employed" be clarified, as it is vague.

**3.07 : Non-Use:** No Licensee shall temporarily or permanently suspend or cease operations at the Licensed Premise without obtaining the prior approval of the BCB, which shall not be unreasonably withheld, delayed or conditioned.

**Commented** We propose this section be clarified that it does not prevent an employee of a licensee to notify his or her supervisor that an agent of the BCB is present on the licensed premises. Additionally, a supervisory employee should be permitted to report to any corporate structure of the presence of a BCB agent on the premises.

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**Commented** We proposed an exception be carved out for emergency situations.

**Section 4: Business Arrangements of the Licensee**

**4.00 : Persons or Entities with Direct or Indirect Ownership or Control:** No Licensee shall permit any person or entity to have, direct or indirect ownership in or control over the Licensee entity or to receive any revenue from the business or to manage the Licensed Premise other

~~Deleted: Beneficial Interest Holders~~

~~Deleted: a~~

~~Deleted: financial or beneficial interest~~

than the persons properly approved of by the BCB and the employees of the Licensee.

**4.01 : Individuals in Position of Authority:** No Licensee shall permit any person to work at the Licensed Premise or to hold themselves out as a person in a position of authority at the Licensed Premise except for those persons who are disclosed and approved persons or entities with direct or indirect ownership or control or who are salaried employees for whom payroll records are available.

**Deleted:** beneficial interest holders

**4.02 : Leasing of the Licensed Premise:** No Licensee shall lease out any part of the Licensed Premise or any part of the business without the prior written approval of the BCB.

#### **Section 5: Regulation of the License**

**5.00 : Cause for Revocation, Suspension, Modification, or Fine:** Any License issued by the BCB may be modified, suspended, revoked, or issued a fine in lieu of the forgoing upon notice and a public hearing before the BCB should the BCB determine there has been a violation by the Licensee of any of these Rules and Regulations or any rule, regulation, law, or other guidance issued by the BCB or City, state, or federal government.

**Commented** See comment above re: federal cannabis laws

**5.01 : Notice:** Notice of such a hearing shall be delivered to the Licensed Premise via hand delivery or certified mail at least two (2) weeks prior to the public hearing.

**5.02 : Written Decision:** A written decision shall be issued within thirty (30) days upon a finding by the BCB that a violation has occurred stating the specific reasons for the BCB's findings.

**Commented** Please see the comments above. We proposed that these rules clarify the disciplinary process.

Dear sir or madam,

I am writing on behalf of the Chinese Consolidated Benevolent Association of New England, Inc., (CCBA) a longstanding Chinatown nonprofit and the owner of Tai Tung Village and Waterford Place, which are smoke- and drug-free developments comprising a total of 254 residential housing units in the Chinatown and South End neighborhoods of Boston. CCBA's properties house many families, children, and seniors. CCBA also organizes Chinatown's Crime Watch group.

CCBA is very concerned with the licensing of cannabis establishments, especially as some groups have expressed interest in locating in or near Chinatown, one of the densest neighborhoods in the City of Boston, as well as a neighborhood plagued by the ill effects of drug use. A cannabis facility in or near Chinatown would pose a serious threat to the health, safety and welfare of local residents, including exacerbating the air quality issue, worsening traffic, exposing young children to marijuana use (whether smoking or edibles), and increasing drug use in community spaces. In Brookline, neighbors of an opened marijuana facility have complained of issues with traffic, litter, public urination, and public consumption.

Because of Chinatown's proximity to the Southeast Expressway and the Mass Turnpike, the area also has one of the highest air pollution rates in both the City and the State. The Josiah Quincy Schools have some of the highest asthma rates in the state. Many of the residential and other buildings in the area as well as community spaces such as public parks are smoke-free. It is inevitable that cannabis use by smoking, whether indoors or outdoors, will create a nuisance in the community and worsen the air quality issues. The Chinatown community is also a high traffic area due to being close to downtown, universities and many office buildings; commuters plague our streets throughout the day and there is a high incidence of traffic accidents in the area, some of them fatal or causing serious injury. There are many daycares and school programs that operate in the area and public consumption would propose a significant health risk to children who may find dropped edibles or paraphernalia.

CCBA welcomes a provision in the rules and regulations that requires input and letters of support from abutters with regard to cannabis establishments wishing to open. The local community needs to have a say in what is being located in their neighborhood (where they live and work) and how they operate since it impacts the quality of life for residents. The Board should use the same standard as the Board of Appeals in the distance for abutters, which is a ½ mile radius. CCBA would also suggest that the City establish a publicly accessible database for pending cannabis establishment applications for local communities to be able to track and stay updated on filed applications, similar to the database the City provides for filed development applications.

CCBA also supports the ½ mile buffer zone between cannabis establishments. It should be applied when an establishment receives approval from the board; any other establishments should then be prohibited from locating within ½ mile. If this is not the standard, it becomes a "free for all" for cannabis stores to locate wherever they want, circumventing the original intent of the rule. Variances should not be lightly granted to other applicants, and only if there is unanimous support from the neighborhood.

Host agreements should require accountability on the part of establishments with respect to neighborhood issues caused by their customers.

With regard to the school zone buffer of 500 ft., properties that are used by schools for instructional classes should be included in this calculus, whether they are owned, rented, leased or otherwise used by agreement. Because the demand for school seats at both Quincy Schools is high, classroom space is limited, and they have to use other facilities in Chinatown to hold their classes; these facilities should also be included in the school zone determination.

Chinatown already has a significant drug and crime problem being adjacent to the Combat Zone, homeless shelters, and nightclubs. Cynthia SooHoo, the Principal of the Quincy Elementary school said that they

commonly find drug paraphernalia and unsavory objects in their playground and at Eliot Norton Park which is regularly used by school children, daycares and after school programs. Members of CCBA's Crime Watch also frequently find drug paraphernalia throughout the neighborhood.

CCBA is very concerned with cannabis facilities operating in close proximity to Chinatown where we have many elderly residents, families with young children and social service programs. We encourage the City to foster a process that is open, transparent, and gives significant weight to the residents and social service providers of neighborhoods where cannabis establishments wish to open.

Thank you for the Board's attention to these comments.

Best regards,

***Susan Chu***

Executive Director

Chinese Consolidated Benevolent Association of New England ("CCBA")

90 Tyler Street

Boston, MA 02111

T 617-542-2574

[schu@ccbaboston.org](mailto:schu@ccbaboston.org)

Dear Board Members:

As a Boston resident, I am deeply concerned with the regulation of your board and the influence it will have on the cannabis industry in the city. My friends, neighbors, and I are not confident that any minorities or people of color will actually benefit from these stores. It has always been promised but never delivered. Giving priority to equity applicants is one thing, but the City of Boston needs to get more involved in financial factors of starting these local stores because without access to more help in the form of money from the big operations, these licenses will remain unused, while all the big money operators will continue business as usual and move into the neighborhood and muscle out the locals before they can even get started – the locals will not benefit from the jobs that cannabis is supposed to create.

The Boston Racial Equity Fund needs to grow fast! Money to local operators needs to get into their hands fast! This Board needs to act fast on this moment before the huge potential these new businesses could have on impoverished neighborhoods is lost.

Please take care to make cannabis in Boston a success for more than a few store owners.

Thank you,

José Lopes  
Boston, MA



Dear Boston Cannabis Board Members:

I am writing to ensure that your deliberations with regard to the creation of your governing rules and regulations include some thought to your responsibility to the community and the adoption of language that fosters a better future for Boston's most impacted peoples. Much has been said and described about the City of Boston's commitment to social equity in the form of Equity Applicants in Cannabis Licensing. While I applaud the 1:1 licensing ratio on its face, it wholly lacks any discernable clear guidance on how the jobs created by these facilities will stand to benefit the residents of the neighborhoods in which they are located – any "Employment Plan" can and should include an acknowledgement that there are people in the immediate community who have also been adversely impacted by the "prior legal prohibition of cannabis and enforcement of the same."

The Boston Cannabis Board can truly become a vital difference-maker and game-changer by taking this opportunity to lead the dismantling of a broken system. Incorporating clear guidance into your rules that ensure not just the equity operators stand to benefit from these reparations but that the workers in the communities who will ultimately staff and operate these facilities is paramount. All cannabis workers in Boston can be afforded good pay that allows for a sustainable living and a guarantee that a career in the cannabis industry is more than a minimum wage job, but can give them and ability to provide their families with future and more than the lowest quality health insurance. If these pot stores are filled with low-end jobs with no future or pride attached to their operation, then the concept of true "Economic Empowerment" and "Social Equity" will NEVER be realized.

Thank you for your time,

Kathleen Lee  
Boston, MA

Dear Board:

I think that much of what I read of your draft rules and requirements is vague and hope that this body will seriously take up and exercise every bit of its governing power and do something helpful for women and people of color in Boston.

- Boston residents need these jobs
- Equity applicants need money to open
- Women and minorities need guarantees that they won't be overlooked
- Minimum wage is not enough to live on
- Proper Health Insurance is unaffordable for folks living in these neighborhoods

Our neighborhoods need better opportunities for good careers and if the Board can make these pot businesses something to repair the damage and give us pride, then it should start that work immediately!

Thank you,

Shavonne W. Vance  
Boston, MA

## Written Testimony on the Rules and Regulation of the Boston Cannabis Board

Hi, my name is Nancy Lo and I represent a coalition of Chinatown organizations including non-profits, both Quincy Schools, daycare facilities, senior housing developments and other family service organizations.

We are concerned with the licensing of Cannabis establishments and some groups have expressed interest in locating in or near Chinatown.

Chinatown is one of densest neighborhoods of the city. It also has one of the highest pollution rates as a result of its proximity to the Southeast Expressway and the Mass Turnpike. Also, we are in a high traffic area being close to downtown, universities and many office buildings where commuter plague our streets throughout the day.

We welcome the provision that requires letters of support from abutters. Local community need to have a say in what is being located in their neighborhood since it impacts the quality of life for its residents. The Board should use the same standard as the Board of Appeals in the distance for abutters, which is a ½ mile radius.

We also support the ½ mile buffer zone between cannabis establishments. It should be applied when an establishment receives approval from the board, another establishment should then be prohibited from locating within ½ mile. If it is not, it becomes a “free for all” for cannabis stores to locate wherever they want.

With regards to the school zone of 500 ft. Properties that are used by the school for instructional classes should be included whether it is owned, rented, leased or by agreement. Because the demand of school seats at both Quincy Schools are high, classroom space is limited, and they have to use facilities in Chinatown to hold their classes. These facilities should be included as well in the school zone.

Chinatown already has a drug and crime problem being adjacent to the Combat Zone, homeless shelters, and nightclubs. Cynthia SooHoo, the Principal of the Quincy Elementary school said that they commonly find drug paraphernalia and unsavory objects in their playground and at Eliot Norton Park which is commonly used by school children, daycare and after school programs. We are very concerned with Cannabis facilities operating in close proximity to Chinatown where we have many elderly residents, families with young children and many social service programs.

I thank you for the opportunity to offer testimony to the rules and regulations of this Board.

Nancy Lo, Kwong Kow Chinese School, Richard Chang, Quincy Upper School, Cynthia SooHoo, Quincy Elementary School, Little Panda Daycare, Tai Tung Apartments, Wang YMCA, Chinatown Business Association, Golden Age Center, Mass Pike Towers, Chinatown Beautification Committee, Gee How Oak Tin Association.

Dear Members:

The moment is now for actual change to the system in Boston. The potential for the legal pot stores in Boston to change the lives of so many in neighborhoods that have historically been ignored by every wave of prosperity and economic development, not to mention the lives that have been lost from unbalanced prosecution and incarcerations. Commitments have been made regarding licensing (the one to one awarding of licenses), but nothing is being said about the jobs for the people in these same communities who have faced all the same discrimination and poverty. Shouldn't the board be looking for aggressive ways to require that this industry do more than put a few lucky store owners into business? The kind of jobs that are created will change the lives of so many more people. Cannabis in Boston can create so much good for so many in the poorest communities if handled properly, you have the power, you have the means. Are you going to waste it with lots of approved licenses that never get used by local applicants because they don't have support from the community? Our community will support businesses that create the type of jobs that let families live, work and stay where they grew up.

Boston residents and the people that live in the neighborhoods where these stores are going should get the jobs too!

Thank you,

Dave LaPia

Boston, MA



Dimitrios Pelekoudas  
Assured Testing Laboratory  
43 Freeport Street  
Dorchester, MA 02122

July 15, 2020

Boston Cannabis Board  
One City Hall Square, Room 817  
Boston, MA 02201

Dear Board Members,

Thank you for the opportunity to provide oral testimony on the Boston Cannabis Board's current draft rules and regulations on July 8, 2020. As a follow up to the hearing we provide the additional written testimony.

In light of the current backlog of testing both here in the Commonwealth and across the country, below please find examples of various jurisdictions that have acknowledged the importance of implementing policy that treats testing facilities separate and independent from other marijuana establishments:

- **Maine** – the Portland City Council issued temporary cannabis testing laboratory licenses to keep up with testing demand. <https://www.cannabisbusinesstimes.com/article/portland-city-council-votes-to-issue-temporary-cannabis-testing-lab-licenses/>
- **Colorado** – the City of Denver omitted testing facilities from their zoning code restrictions and process. [https://citycountydenverprod.adobeccqms.net/content/dam/denvergov/Portals/723/documents/Marijuana\\_Facility\\_Location\\_Guide.pdf](https://citycountydenverprod.adobeccqms.net/content/dam/denvergov/Portals/723/documents/Marijuana_Facility_Location_Guide.pdf)
- **Oregon** – the City of Portland exempts marijuana testing labs from their community approval process. <https://www.portlandoregon.gov/civic/article/595357>

- **Washington** State decided that it would not label testing labs as "cannabis businesses" for regulation and transferred regulatory requirement under testing for drugs, food, agriculture, environment, etc. <https://ecology.wa.gov/About-us/How-we-operate/Scientific-services/Lab-accreditation/Cannabis-lab-accreditation>

Assured Testing Laboratory is committed to adhering to all rules and regulations established by the Commonwealth and the City of Boston. As members of the Boston community, it is our mission to ensure the delivery of safe, quality products for every consumer while also upholding the Equity Program outlined by this Board. Establishing an independent marijuana testing facility within the City of Boston ensures that the Licensees granted under this body are able to operate in an equitable manner by having adequate testing supply to meet high demand.

We look forward to participating in the next step of the process including but not limited to abutter's meetings and HCA meetings as soon as possible. Thank you.

Sincerely,

Dimitrios Pelekoudas  
CEO & CO-FOUNDER  
Assured Testing Laboratory, LLC



BOSTON CITY COUNCILOR  
**LYDIA EDWARDS**  
*DISTRICT ONE*

JULY 15, 2020

BOSTON CANNABIS BOARD  
BOSTON CITY HALL  
BOSTON, MA 02201

**RE: BOSTON CANNABIS BOARD DRAFT RULES AND REGULATIONS**

Dear Board Members,

Thank you for the opportunity to comment on the Board's draft rules and regulations for granting licenses to applicants for cannabis businesses in the City of Boston. I have the following suggestions, questions, and concerns.

1. **General Comments:**

- a. **Annual Review.** I would like to see the Board establish an annual review of the rules and regulations rather than leaving the review process open ended. Currently the proposed regulations allow for amendments from "time to time." That is not specific enough and doesn't require any review.
- b. **Clear Timeline and Process.** The regulations need to state the order and timeline for review and approval. This process needs to lead to the Board being the final point in the municipal approval process. The goal should be that applicants appear before the Board only once before being issued a license.
  - i. Therefore, a negotiated (though not executed) host community agreement, the security and operations plan (required under section 3.00) and the license all need to be approved by the Board.
  - ii. Applications should adhere to the following timeline: A community outreach meeting must be held within 6 months of the initial application date. Within 30 days of the community outreach meeting the HCA is to be negotiated and presented with the complete application to the board for execution. This complete application should include the above mentioned security and operations plan and any necessary documentation related to a possible buffer zone exception in

addition to the documents required in section 8-13.6 of the ordinance.

- c. **Separate License Classes.** The Board must create a separate license class for delivery-only businesses. Under the proposed rules and regulations, delivery-only businesses and dispensaries are classified the same for the purposes of licensing. If delivery businesses and dispensaries are issued the same license by this Board, we could create an industry with a disproportionate number of dispensaries being operated by non-equity license holders due to the two year exclusivity window for delivery-only businesses at the state level.
    - i. This delivery license classification should also come with a fee structure that better reflects the impacts of a delivery business on the community compared to a dispensary.
    - ii. The final rules and regulations should clarify which district councilor should submit a letter of support, opposition, or non-opposition for delivery businesses. If a delivery business with a registered address in one district establishes a partnership to deliver from a dispensary in another district, the district councilor of the location of the dispensary should be the one to submit this letter as it is that district that will be impacted by the operations of the business.
    - iii. The Board should also create an additional license class for cultivation and manufacturing businesses.
    - iv. The Board should begin establishing rules and regulations related to how it will classify and license on-site cannabis consumption businesses.
  - d. **Equity.** I am encouraged by the Board's proposal to hold applications of non-equity applicants unless the license can be issued while maintaining the 1:1 ratio of non-equity to equity licenses established in the ordinance. However, the failure to provide a clear timeline and process for applicants, licensing all cannabis businesses with the same license, and charging the same licensing fee to all applicants could result in an inequitable cannabis industry in Boston.
2. **Section 1.02: Application and Hearing Process**
    - a. As mentioned in my general comments above, this section should more clearly outline the application process and timeline from initial application until approval by the Board prior to state review.
  3. **Section 1.05: Buffer Zone**
    - a. The option for an applicant to receive a letter of support from the Office of Neighborhood Services instead of the district city councilor under subsection D should be removed.
  4. **Section 2.02: Annual Fee**
    - a. Different license classifications should have different fee structures that reflect their impact on the neighborhood in which the businesses are operating.
    - b. The Board should consider waiving the annual fee for equity applicants as the CCC does.
  5. **Section 3.00: Security and Operations Plan**
    - a. The regulations should make clear that the security and operations plan is to be reviewed by the Board at the same time as the rest of the application. The current language in this section leaves some ambiguity as to when this plan should be submitted and does not give a clear timeline regarding its review.



**6. Section 3.06: Inspection of the Licensed Premise**

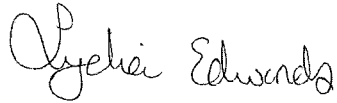
- a. Clarity from the Board regarding who is or may be considered an “agent of the BCB” is needed.

**7. Section 5.00: Cause for Revocation, Suspension, Modification, or Fine**

- a. Misrepresentation and fraud should be added as possible reasons for enforcement action by the Board.

Thank you again for the opportunity to comment. I look forward to working with you to establish an equitable cannabis industry in the City of Boston.

Sincerely,

A handwritten signature in cursive script that reads "Lydia Edwards". The signature is written in black ink and is positioned to the left of the printed name.

Lydia Edwards  
Boston City Councilor  
District One

Kathleen Joyce, J.D.  
Chair, Boston Cannabis Board  
One City Hall Square, Room 817  
Boston, MA 02201  
cannabisboard@boston.gov

Re: Draft Rules and Regulations, Boston Cannabis Board

Dear Ms. Joyce and Board Members:

Residents of Boston voted to support the establishment of new businesses selling cannabis products. It's important that a fair process be used to select locations where this new form of business can open. To deny Roxbury any opportunities for the benefits from cannabis businesses by preventing this type of business would be wrong. It would be equally wrong to locate too many stores in Roxbury, which is what has happened with liquor stores.

Stores that are licensed to sell liquor dominate the landscape in Roxbury. There are at least 20 stores within a mile and a half of my address. Some stores, like Blue Hill Superette, 167 Blue Hill Ave. maintain more than half of their product inventory in \$1 or \$2 nips, with the result that people stand within a few feet of the store entrance for several hours each day drinking. The milling about completes a downtrodden physical appearance at the store that is well beneath the standards of any successful business district. The business denigrates the nearby neighborhood making it less appealing than other areas of the City of Boston.

In developing guidelines for recreational cannabis stores, it's important that the buffer zones be enforced and that the board assume full and complete responsibility for approving each store within established Massachusetts law and municipal zoning. Requiring the written support of direct abutters and acknowledgement of a conflict with zoning is a good start. To be effective and to prevent legal abutters from being forced into costly lawsuits, this requirement should be kept in the City regulations.

The need to recognize MA State Certified Economic Empowerment Candidates is important and a preferred way to bring equity to the industry, instead of allowing those with connections to powerful Boston politicians to leapfrog over much earlier state certified applicants by using a municipal equity program which could result in too many cannabis businesses in Roxbury.

Lastly, I recommend that the Cannabis Board add a position for a neighborhood representative . In the past, the Zoning Board of Appeal has had a member who specifically represented the interests of neighborhood residents which gave residents better input into the process and was a good reflection of community members. I think the Cannabis Rules and Regulations should add a similar position.

Lorraine Payne Wheeler  
Roxbury Path Forward Neighborhood Association  
Roxbury United Neighborhoods (RUN)  
85 Moreland St.  
Roxbury, MA 02119