

# **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.

#### **A. Application Requirements**

This section to be completed pursuant to the Ordinance.

**B. Disclosure of Direct and Indirect Beneficial Interest Holders:** All 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 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

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 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).

## **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. 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).
- 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 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 of the BCB.

## **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.