

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, NOVEMBER 20, 2013

7:45 PM  
Room 222

**ITEMS SCHEDULED FOR DISCUSSION:**

***A brief Rules Subcommittee meeting will be held at the start of the meeting for a short discussion of item #130-13 which will then be discharged to Committee.***

Appointment by His Honor the Mayor

#409-13      JAN HUFFMAN, 27 Indiana Terrace, Newton, appointed as a member of THE NEWTON ELECTION COMMISSION for a term to expire March 31, 2017. (60 days 1/30/14) [11/12/13 @ 9:28 AM]

#130-13      ALD. JOHNSON & LAPPIN requesting a change to the Board Rules, Article I, Section 3. Referral of business to Committees, paragraph D., to increase the majority vote to a greater than majority vote. [03/18/13 @ 9:39 PM]

#200-13      ALD. JOHNSON requesting a discussion with the Parks & Recreation Department and the Department of Public Works to establish a process for managing the placement and removal of City, for-profit, and non-profit signs advertising events. [05/28/13 @ 9:26 AM]

#397-13      ALD. SANGIOLO on behalf of the URBAN TREE COMMISSION, proposing amendments to the Tree Preservation Ordinance. [10/28/13 @ 2:46 PM]

#398-13      ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]

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The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: [jreider@newtonma.gov](mailto:jreider@newtonma.gov) . or 617-796-1145. For Telecommunications Relay Service dial 711.

- #399-13 ALD. LINSKY, HESS-MAHAN, ALBRIGHT, CROSSLEY, DANBERG, BLAZAR, LAREDO & SCHWARTZ requesting to re-charge a task force to devise recommendations as to best practices and/or potential regulatory approaches to achieve improvements regarding the use of leaf blowers in the City of Newton. [10/28/13 @ 7:01 PM]

**ITEMS FOR REFERRAL TO 2014-2015 BOARD:**

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

- #403-13 HIS HONOR THE MAYOR submitting the FY15-FY19 Capital Improvement Plan and Long Range Projection pursuant to section 5-3 of the Newton City Charter. [10/21/13 @ 9:59 AM]
- #199-13 ALD. JOHNSON AND SANGIOLO requesting an update from the School Committee and School Department regarding the request from the Board of Aldermen to reduce the family cap on activity fees. [05/20/13 @ 11:05 PM]
- #95-13(2) THE PROGRAMS & SERVICES COMMITTEE requesting an update from the Health Care Advisory Committee. [09/12/13 @ 9:49AM]
- #34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]
- #334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

**REFERRED TO PROGRAMS & SERV. AND PUBLIC FACILITIES COMMITTEES**

- #315-12 ALD. FULLER, RICE AND GENTILE of the Angier School Building Committee providing updates and discussion on the Angier School Building project as it develops through the site plan approval process.

**REFERRED TO PROG & SERV, PUB. FAC., ZAP, AND FINANCE COMMITTEES**

- #256-12 ALD. HESS-MAHAN, SANGIOLO & SWISTON proposing an ordinance promoting economic development and the mobile food truck industry in the City of Newton. [08/06/12 @4:46 PM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #254-12 ALD. HESS-MAHAN, SANGIOLO, DANBERG, KALIS, CROSSLEY proposing an ordinance relating to plastic bag reduction that would add a fee to single-use plastic and paper bags that are not at least 40% post-consumer recycled content, at certain retail establishments in Newton [07/18/12 @4:34 PM]

- #229-12 RECODIFICATION COMMITTEE recommending a review and possible amendment to the *Board of Aldermen Rules & Orders 2012-2013* relative to review of draft ordinances by the Law Department.
- #145-12 ALD. JOHNSON requesting a review by the Solicitor's office as to what constitutes "reorganization" per our City Charter. [05/16/12 @ 10:24PM]
- #144-12 ALD. HESS-MAHAN proposing to repeal the time restrictions for filing special permit applications/site plan reviews for Major Projects during July and August in Article X Section 5 of the Rules and Orders of the Board of Aldermen.

**REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES**

- #312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @ 11:07 AM]  
**FINANCE & PF VOTED NO ACTION NECESSARY**

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

**REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE**

- #402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]
- #396-13 ALD. LENNON & LAPPIN, pursuant to Section 2-7 of the City Charter recommending that the 2014 -2015 Board of Aldermen re-appoint David A. Olson as City Clerk/Clerk of the Board; said term will be two years or until a successor is duly qualified. [10/28/13 @ 3:09 pm]

**REFERRED TO PROG. & SERV AND PUBLIC FACILITIES COMMITTEES**

- #36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.
- A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;
  - B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.
- [01/24/12 @ 8:07 AM]

**.REFERRED TO PROG. & SERV. AND PUBLIC SAFETY & TRANS COMMITTEES**

#410-13 ALD. JOHNSON, ALBRIGHT AND LINSKY requesting discussion with the Parks & Recreation, Police, Fire and Law Departments regarding options to decrease vandalism at the Albemarle Park (Halloran Recreation Complex) before April, 2014 [11/12/13 @ 4:15 PM]

Respectfully Submitted,

Amy Mah Sangiolo

#409-13



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor Newton City Clerk

RECEIVED  
2013 NOV 12 AM 9:28

David A. Olson, CMC  
Newton, MA 02459

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(617) 796-1100

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(617) 796-1089

E-mail  
swarren@newtonma.gov

November 6, 2013

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to appoint Jan Huffman of 27 Indiana Terrace, Newton as a member of the Newton Election Commission. His term of office shall expire March 31, 2017 and his appointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Setti D. Warren".

Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE

**Jan Huffman**

27 Indiana Terrace, Newton Upper Falls, MA 02464-1314, 617-527-8849, 617-905-4175 (cell), jan@huffmans.net

**Professional Experience**

**Jan Huffman Consulting**

*Web Developer*

- ▶ Designed and implemented several web sites using Microsoft Expression Web.

**Previous Employment**

One Communications	<i>Senior Software Engineer</i>
Software Productivity Research	<i>Senior Software Engineer</i>
Project Software and Development, Inc.	<i>Principal Software Engineer</i>
Wang Laboratories	<i>Project Software Engineer</i>
Absolut Software	<i>Vice President, Software Development</i>
Prime Computer	<i>Product Manager, Transaction Processing</i>
Data General	<i>Product Manager, Commercial Eclipse Software</i>
McDonnell Douglas Automation Company	<i>Senior Section Manager, programming and analysis sections</i>
Westinghouse Air Brake Company	<i>Manager of engineering computer department</i>

**Non-Professional Work**

**Sean Bielat for Congress**

July 2012 – November 2012

*Office Manager*

- ▶ Managed the Newton campaign office full time. Installed and maintained technology. Hosted meetings. Coordinated volunteer efforts.

**Newton Ward 5 Republican Committee**

- ▶ Built and maintains web site, ward5gop.org.

**Newton 9-11 Memorial Committee**

- ▶ Treasurer since the inception of the committee.. Prepares monthly financial reports and regulatory filings.

**Newton Upper Falls Area Council**

*Accountant*

**Boston Beanstalks Tall Club**

*President, Treasurer, Webmaster, and Accountant*

- ▶ Ran the 1993 Tall Clubs International Convention in Boston.

**Education**

**Massachusetts Institute of Technology, Alfred P. Sloan School of Management**  
SB in Industrial Management, Quantitative option

**Massachusetts Office of Campaign and Political Finance (OCPF)**  
Attended training sessions on finance and reporting rules

**Recognition**

**Newton Republican City Committee: Republican of the Year 2013**  
**Tall Clubs International: Lifetime Achievement Award 1993, Multiple Best Web Site Awards**

**A REGULATION TO ENSURE SAFE ACCESS TO MEDICAL MARIJUANA  
IN THE CITY OF BOSTON**

Whereas, Massachusetts voters approved the legal cultivation, processing, distribution, sale and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana; and

Whereas, nothing in that Act or its implementing regulations at 105 CMR 725 supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes; and

Whereas; the prevention of the illegal sale and use of marijuana, particularly by the city's youth, is a public health priority; and

Whereas; Registered Marijuana Dispensaries and similar clinics in other jurisdictions have been found to present unique and challenging threats to public health and safety; and

Whereas, the state regulation at 105 CMR 725.600 allows for lawful local oversight and regulation, including fee requirements; and

Whereas, reasonable and effective local oversight of the cultivation, processing, distribution, sale and use of marijuana for medical purposes is needed to protect community health and safety while ensuring legitimate patient access;

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of all Boston residents, particularly the most vulnerable, and pursuant to the authority granted to it under M.G.L. c 111 § 31, the Board of Health enacts a Regulation to Ensure Safe Access to Medical Marijuana in the City of Boston as follows:

**GUIDELINES**

1. The Boston Public Health Commission ("Commission") may issue guidelines for the implementation of these regulations, including but not limited to definitions of terms used in these regulations and in the guidelines. In the event of a conflict between these regulations and the guidelines, as either may be amended, the regulations shall control.

**PERMITTING**

1. Any proposed Registered Marijuana Dispensary ("RMD") shall obtain an Operating Permit in the form and manner prescribed by the Office of Environmental Health of Boston Public Health Commission, as may be further set forth in the Guidelines.

2. An annual Operating Permit fee of \$500.00, as may be amended from time to time through Guidelines issued by the Boston Public Health Commission's Executive Director, shall be assessed annually.
3. The RMD operator shall post the Operating Permit in a clear and conspicuous manner.
4. No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the city of Boston without first obtaining a Dispensary Agent Permit issued annually by the Commission. For purposes of this regulation, Dispensary Agent will include board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030. Employee includes a consultant or contractor who provides on-site services to a Registered Marijuana Dispensary related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.
5. As part of the Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation.
6. Each applicant is required to provide proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years old or older.
7. Each applicant is required to provide proof of a current Dispensary Agent registration, issued by the Commonwealth of Massachusetts, before a Permit can be issued.
8. The fee for a Permit shall be \$100, and may be amended at the discretion of the Executive Director.
9. All Dispensary Agent and Operating Permits expire annually on December 31st and shall be valid for a maximum term of one year, renewable annually on January 1<sup>st</sup>.
10. No permit issued under this regulation may be transferred to any other person or entity.

## **REQUIREMENTS AND PROHIBITIONS**

1. The cultivation, processing, distribution, sale and use of marijuana for medical purposes shall be conducted in compliance with all laws, ordinances, regulation or policies applicable to similar activities. This shall include, but not be limited to compliance with Food Service Health Permit requirements, Weights and Measures requirements, Regulations for the Control of Noise in the City of Boston, Public Nuisance Properties Ordinance, Clean Air Works Workplace Smoking and E-Cigarette Regulation, and any and all requirements associated with zoning and permitting.
2. In no instance shall an Operating Permit be issued to any RMD that is within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate.
3. The cultivation, processing, distribution, or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all federal, state and local laws,



- ordinances, regulation or policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the fines and penalties described herein.
4. The issuance of an Operating Permit under this regulation shall be conditioned on Registration approval by the Massachusetts Department of Public Health as required by state law and regulation. Any revocation of an RMD's state registration shall result in an automatic suspension of that RMD's Operating Permit.
  5. RMDs shall submit a security plan for review to the Boston Public Health Commission detailing all security measures taken to ensure patient and community safety and eliminate unauthorized access to the premises. The Boston Public Health Commission may issue guidelines or other procedure setting forth specific security requirements. Unless specified by any other state or local requirement or agreement as to the hours of operation of a RMD, the Executive Director, in consultation with Boston Police Department, City of Boston Inspectional Services Department, neighborhood associations, community organizations and residents, may set limitations on the hours of operation of any RMD.
  6. Each RMD must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the RMD's operating practices, policies and plans.
  7. RMDs must offer a secure patient or personal caregiver home delivery system that serves every address within Boston's city limits and provides patient or personal caregiver home delivery service to any patient or personal caregiver residing in the city of Boston who suffers a physical incapacity to access transportation as described by 105 CMR 725.035(A)(2).
  8. A RMD shall submit a plan for review to the Boston Public Health Commission detailing its plans to provide reduced cost or free marijuana to patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6). If said plan is deemed insufficient to ensure adequate patient access, no Operating Permit shall be issued.
  9. The Executive Director may set further limitations on signage and advertising of RMDs, and may require the distribution of educational materials. Signage limitations may include, but need not be limited to those set forth in 105 CMR 725(105)(L), including restrictions on the use of images related to marijuana or marijuana paraphernalia, size and visibility of marijuana displays from outside a RMD. Educational materials to be distributed may include a "patients' bill of rights" along with information on addiction and treatment resources.
  10. A RMD may not sell any products other than marijuana. For purposes of this subsection, "marijuana" may include Marijuana Infused Products, marijuana seeds, and other products that facilitate the use of marijuana for medical purposes, such as vaporizers. RMDs may not sell any tobacco product, or other nicotine delivery product, including e-cigarette cartridges or liquids that contain nicotine.

11. RMDs shall submit data and reports to the Boston Public Health Commission in a form and manner determined by the Executive Director.
12. The issuance or renewal of an Operating Permit may be conditioned up the approval of any plan or compliance with this Regulation or any guideline or requirement issued under the authority of this Regulation.
13. Issuance and maintaining a Dispensary Agent Permit shall be conditioned on an applicant's on-going compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
14. A Dispensary Agent Permit will not be renewed if the Permit Holder has failed to comply with any corrective action plan and/or has not satisfied any outstanding Permit suspensions.
15. Dispensary Agents must present their state Registration Card and Dispensary Agent Permit to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
16. Inhaling, exhaling, burning or carrying any lighted or vaporized substance in any manner or form, including marijuana used for medical or any other purpose in a workplace shall constitute a violation of this regulation and shall be subject to the fines and penalties stated in the Clean Air Works Workplace Smoking and E-Cigarette Use Regulation.

#### **ENFORCEMENT AND PENALTIES**

1. Authority to inspect RMDs for compliance and to enforce this regulation shall be held by the Boston Public Health Commission, its subsidiary programs or designees, the City of Boston Inspectional Services Department, and the Boston Police Department.
2. Any person may register a complaint under this Regulation to initiate an investigation and enforcement with the Boston Public Health Commission, its subsidiary programs or designees. Unscheduled compliance inspections shall be conducted at a minimum of three inspections annually.
3. Any fines or fees collected under this regulation shall be used for the administration and enforcement of this regulation and/or for any activities incidental to the regulation of medical marijuana.
4. It shall be the responsibility of the RMD Occupancy Permit holder and/or individual in charge of the RMD to ensure compliance with all applicable sections of this regulation. Any RMD found to be in violation of any of the provisions of these regulations may receive a written warning citation, Operating Permit suspension, Dispensary Agent Permit suspension, Operating Permit revocation, or Dispensary Agent revocation. For any violation, the Commission or its designee may order the RMD permit holder appear for a hearing and/or enter into a corrective action plan to address any and all violations and prevent future violations.
5. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Boston Public Health Commission or a City of Boston department or

agency from suspending or revoking any license or permit issued by and within the jurisdiction of such department or agency for repeated or egregious violations of this regulation.

6. Boston Public Health Commission may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.

## **APPEALS**

1. Any RMD Operating Permit holder, Dispensary Agent, or any person or entity charged with violation of any provision of this regulation shall receive a citation from a designated agent of the Commission. Such citation and any subsequent hearing notification shall be deemed a Notice of Action within the meaning of 801 CMR 1.02(6).
2. Unless waived, the Commission shall conduct an Administrative Hearing before a designated hearing officer and in accordance with procedures approved by the Commission's Executive Director, to determine the facts of the violation, the appropriate corrective action measures, term of suspension, if any, and/or issue a permit revocation order.
3. Any RMD Operating Permit holder, Dispensary Agent, or any person or entity cited for violation of this regulation wishes to appeal the findings or rulings of the Hearing Officer he/she shall file a written appeal, and any supporting memoranda and documents, within twenty-one (21) days of the date the Hearing Officer's decision is issued. The Commission shall file any response to the appeal within fifteen (15) days of the date of receipt of the appeal is filed.
4. The Commission's Executive Director or his/her designee shall review the appeal and may hear oral argument. The Executive Director or his/her designee shall make a written finding and recommendation. The Executive Director's decision shall be the final decision of the Commission.
5. Failure to comply with any corrective action plan, suspension or revocation, shall result in automatic suspension of the permit.

## **RETALIATION**

1. No person, retailer, or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this regulation.

## **SEVERABILITY**

1. If any provision, clause, sentence, paragraph or word of this Regulation or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this Regulation are declared severable.

**EFFECTIVE DATE**

1. This regulation shall take effect immediately upon passage by the Board of Health.

**AUTHORITY**

M.G.L. c. 111, 31; M.G.L. c. 111, App. §§2-1, 2-3, 2-6(b) and 2-6(j), 2-7(a)(1) and 2-7(a)(15).

DRAFT

**SAMPLE REGULATION  
RESTRICTING THE SALE OF MARIJUANA**

This template expands the local regulatory scope over the sale of medical marijuana under Chapter 369 of the Acts of 2012 (An Act for the Humanitarian Medical Use of Marijuana) and 105 CMR 725 (Implementation of an Act for the Humanitarian Medial Use of Marijuana). The general aim of this template is enable communities to further regulate, improve compliance, deter illegal sales, and eliminate illegal use of marijuana by non-approved persons.

**INSTRUCTIONS FOR USE:**

1. Fill in [city or town] name.
2. Fill in [ordinance, bylaw, regulation] type.
3. If measure is to be a bylaw or an ordinance edit the following: (a) replace “regulation” with “bylaw” or “ordinance”; (b) remove references to “board of health”; and (c) remove “Authority” section.
4. Fill in any bolded decisions with appropriate answer.
5. If sections are removed, re-letter/re-number accordingly.
6. Fill in effective date.

**NOTES ON THIS SAMPLE:**

1. **DRAFT POLICIES, USING THIS SAMPLE OR NOT, SHOULD BE REVIEWED BY YOUR MUNICIPAL ATTORNEY BEFORE ENACTMENT.**
2. The general intent of this regulation is two-fold: (1) to complement those state-controlled components of the state law by providing for local licensing and enforcement of dispensaries and (2) to ensure that the Registered Marijuana Dispensary (referred in the Massachusetts Department of Public Health (DPH) rules as “RMD”) environment is strictly controlled to meet the requirements of the state law but go no further. Language in the DPH rules is not preemptive. Section 105 CMR 725.600 reads: “The Department does not mandate any involvement by municipalities or local boards of health in the regulation of RMDs, Qualifying Patients with hardship cultivation registrations, or any other aspects of marijuana for medical use. However, nothing in 105 CMR 725.000 shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 105 CMR 725.000.”
3. **SECTION B (AUTHORITY):** This regulation is formatted as a health regulation. If your board of health is not going to be the primary enforcing agents, but your police department or another municipal department will be, then this measure may be better suited as a city ordinance or a town bylaw.
4. **SECTION C (DEFINITIONS):** The definitions listed are either from 105 CMR 725 or the current local tobacco regulation sample.
5. **SECTION D (DISPENSARY LICENSURE):** The Commonwealth has a requirement that anyone holding a retail liquor license must be a U.S. Citizen, a resident of Massachusetts and at least 21 years old. These requirements have not been added to this section but cities and towns may choose to add them.
6. **SECTION D (DISPENSARY LICENSURE):** The list of requirements found here for local licensure is not exhaustive. Your municipality may have additional requirements for other licenses/permits that you may want to add to this section. Many of the requirements listed are similar to those required of retailers selling tobacco in your municipality. The sample disallows the sale of tobacco, liquor, lottery or the in-house consumption of food in an attempt to limit the purpose of dispensaries to only that found in MGL Ch. 369.

7. **SECTION E (DISPENSARY SALES)**: reflects controls to place on the Registered Marijuana Dispensary retail environment that have proven to be helpful in controlling the retail environment regarding tobacco sales. The broad intent is to ensure that there is a face-to-face transaction where the sale is between a qualified seller and a qualified buyer only.
8. **SECTION F (DISPENSARY AGENT LICENSURE)**: Requiring a local permit for state-approved Dispensary Agents will provide a municipality with a list of all Dispensary Agents operating within that municipality and permit local enforcement of persons permitted to sell and/or delivery marijuana at a Registered Marijuana Dispensary. This permit is for individuals only. Registered Marijuana Dispensaries must abide by the Licensing requirements found in Section D.
9. **SECTION H (SALES BY OTHERS)**: reflects the fact that non-qualifying sales of marijuana are controlled by other sections of the state law and may already be addressed in municipal laws you already have.
10. **SECTION I (MARIJUANA POSSESSION)**: addresses the limitations of the state law regarding who can possess marijuana.
11. **SECTION J (MARIJUANA USE)**: Subsection (1) addresses “smoking” of marijuana that is controlled by the state’s Smoke-free Workplace Law (MGL Ch. 270 §22). The smoking definition in the law, and found in this sample, bans the smoking of any substance intended to be “combusted and inhaled”. This prohibits the smoking of marijuana in those workplaces, public places, restaurants and bars that have been required to be smoke-free since July of 2004. Subsection (2) expands the prohibition on school property to not only smoking but to all forms of marijuana use.
12. **SECTION K (VIOLATIONS)**: is the general penalty scheme used for tobacco with the following changes and caveats: (1) Subsections 1, 2, 3, and 4 focus on Registered Marijuana Dispensaries only and section 5 focuses on individuals; (2) Almost all local tobacco regulations use a \$100/200/300 fining scheme as that is what is provided in the state law regarding sales to minors. This sample has a \$300 flat fine to eliminate keeping track of fining levels but a progressive fining scheme is a viable alternative; (3) The state has a maximum cap of \$300 for non-criminal disposition use. However, it is not necessary to only use this civil ticketing method and cities and towns can go beyond the \$300 but any fining appeals will be in criminal court, not civil court; (4) The tolling periods used in tobacco regulations ranges from 12 to 60 months. The longer the period, the longer you are requiring a retailer to be without repeat penalties in order to “clean their record”; (5) The suspension periods are the typical ones found in tobacco measures. They are an important part of tobacco enforcement as many retailers find fines alone as just the “cost of doing business”. This will be more applicable for a substance like marijuana that is likely to be far more expensive than tobacco. Suspensions are a more effective enforcement tool in compelling compliance with this measure. These suspension terms in this sample can be shortened or lengthened but keep in mind that a suspension effectively closes the dispensary down; and (6) The \$100 flat fine for the individual mimics the language found in the state’s Smoke-free Workplace Law. The fine can be decreased or increased (up to \$300 if you wish to use non-criminal disposition ticketing).
13. **SECTION L (NON-CRIMINAL DISPOSITION)**: permits both criminal and non-criminal methods of fining (as indicated by the use of the word “may”). The state’s Smoke-free Workplace Law provides for the issuance of non-criminal disposition tickets WITHOUT bylaw or ordinance authorization. However, all civil tickets issued for violations that are not issued for illegal marijuana smoking in public places or workplaces require ordinance or bylaw authorization.
14. **SECTION M (ENFORCEMENT)**: If this measure is to be a health regulation, it cannot go into effect until a summary is printed in a local newspaper per MGL Ch. 111, §31. For bylaws, this measure will need Attorney General approval before going into effect.

**Regulation of the [city/town] Board of Health  
Restricting the Sale of Marijuana**

**A. Statement of Purpose:**

Whereas the citizens of Massachusetts voted in November of 2012 to declare there should be no punishment under state law for Qualifying Patients and health care professionals, Personal Caregivers for patients, or Registered Marijuana Dispensary Agents for the medical use of marijuana.

Whereas the [city/town] of [city/town] aims to abide by the aim of this law and ensure that Registered Marijuana Dispensaries abide by further regulations to ensure the public health and public safety of our residents.

Now, therefore it is the intention of the [city/town] of [city/town] to regulate the sale of marijuana.

**B. Authority:**

This regulation is promulgated pursuant to the authority granted to the [city/town] Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

**C. Definitions:**

For the purpose of this regulation, the following words shall have the following meanings. Terms not herein defined shall be used as defined in 105 CMR 725.

**Blunt Wrap:** Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

**Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**Card Holder:** A registered Qualifying Patient, a Personal Caregiver, or a Dispensary Agent of a Registered Marijuana Dispensary who has been issued and possesses a valid Registration Card.

**Cigar:** Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

**Dispensary Agent:** A board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030. Employee includes a consultant or contractor who provides on-site services to a Registered Marijuana Dispensary related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

**E-Cigarette:** Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

**Hardship Cultivation Registration:** A registration issued to a registered Qualifying Patient under the requirements of 105 CMR 725.035.

**License To Operate a Registered Marijuana Dispensary (hereafter referred to as “License”):** A license issued by the **[city/town] of [city/town]**, to be renewed annually, that permits a Registered Marijuana Dispensary to operate.

**License Holder:** Any person engaged in the sale marijuana who applies for and receives a License or any person who is required to apply for a License pursuant to these regulations, or his or her business agent.

**Marijuana:** All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes Marijuana-Infused Products (MIPs) except where the context clearly indicates otherwise.

**Marijuana-Infused Product (MIP):** A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Registered Marijuana Dispensary, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.

**Nicotine Delivery Product:** Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

**Non-Residential Roll-Your-Own (RYO) Machine:** A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

**Paraphernalia:** “Drug paraphernalia” as defined in M.G.L. Ch. 94C, §1.

**Personal Caregiver:** A person, registered by the Massachusetts Department of Public Health, who is at least 21 years old, who has agreed to assist with a registered ’s medical use of marijuana, and is not the registered Qualifying Patient’s certifying physician. An employee of a hospice provider, nursing, or medical facility or a



visiting nurse, personal care attendant, or home health aide providing care to a Qualifying Patient may serve as a Personal Caregiver, including to patients under 18 years of age as a second caregiver.

**Qualifying Patient:** A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

**Registered Marijuana Dispensary:** A not-for-profit entity registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered Qualifying Patients or their Ns. Unless otherwise specified, Registered Marijuana Dispensaries refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

**Registration Card:** An identification card issued by the Department, valid for one year from the date of issue, to a registered Qualifying Patient, Personal Caregiver, or Dispensary Agent. The Registration Card verifies either that a certifying physician has provided a written certification to the Qualifying Patient and the patient has been registered with the Department; that a patient has designated the individual as a Personal Caregiver; that a patient has been granted a hardship cultivation registration; or that a Dispensary Agent has been registered with the Department and is authorized to work at a Registered Marijuana Dispensary. The Registration Card allows access into appropriate elements of a Department-supported, interoperable database in which detailed information regarding certifications and possession criteria are stored. The Registration Card identifies for the Department and law enforcement authorities, those individuals who are exempt from Massachusetts criminal and civil penalties for the medical use of marijuana in compliance with 105 CMR 725.000 and MGL Ch. 369.

**Self-Service Display:** Any display from which customers may select a marijuana product without assistance from a Dispensary Agent or store personnel.

**Sixty-Day Supply:** That amount of marijuana, or equivalent amount of marijuana in MIPs, that a registered Qualifying Patient would reasonably be expected to need over a period of 60 calendar days for his or her personal medical use, which is ten ounces, subject to 105 CMR 725.010(I).

**Smoking:** The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

**Tobacco Product:** Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff, blunt wraps or tobacco in any of its forms.

**Vending Machine:** Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

**Written Certification:** A form submitted to the Department by a Massachusetts licensed certifying physician, describing the Qualifying Patient's pertinent symptoms, specifying the patient's debilitating medical condition, and stating that in the physician's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient.

**D. License to Operate a Registered Marijuana Dispensary:**

1. No person shall sell or otherwise distribute marijuana or marijuana products within the **[city/town] of [city/town]** without first obtaining a License to Operate a Registered Marijuana Dispensary (License) issued annually by the **[city/town]**. Only Registered Marijuana Dispensaries with a permanent, non-mobile location in **[city/town]**, meeting zoning restrictions, are eligible to apply for a License to maintain a supply of marijuana or marijuana products at the specified location in **[city/town]**.
2. As part of the License application process, the applicant will submit the detailed summary of operating policies and procedures for the Registered Marijuana Dispensary as submitted with their Phase II application per 105 CMR 725.100, including, but not limited to, provisions for security, prevention of diversion, storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or Personal Caregiver home-delivery.
3. As part of the License application process, the applicant will be provided with this **[ordinance, bylaw, regulation]**. Each applicant is required to sign a statement declaring that the applicant has read said **[ordinance, bylaw, regulation]** and that the applicant is responsible for instructing any and all Dispensary Agents who will be responsible for sales.
4. Each applicant is required to provide proof of a current Registered Marijuana Dispensary registration, issued by the Commonwealth of Massachusetts, before a License can be issued.
5. As a condition of License issuance, the Registered Marijuana Dispensary agrees to provide to the **[city/town] of [city/town]** a copy of their Certificate of Registration, annual renewals thereafter, any changes to the business as described in 105 CMR 725.100(F) and current written operating procedures required in 105 CMR 725.105.
6. No applicant is permitted to sell alcohol, tobacco products and/or Nicotine Delivery Products and must not be in possession of either a tobacco sales permit or a liquor license issued by **[city/town]**.
7. No applicant is permitted to hold a **[food service permit/Common Victualler license]** issued by **[city/town]** for on-premises food consumption.
8. No applicant is permitted to be a Massachusetts lottery dealer.
9. The fee for a License shall be determined by the **[city/town] of [city/town]** annually.
10. A separate License is required for each retail establishment selling marijuana and/or marijuana products and for each location, not being the same address as the retail establishment, where the Registered Marijuana Dispensary is approved by the state to cultivate marijuana or prepare MIPs.
11. Each License shall be displayed at the retail establishment in a conspicuous place.
12. Issuance and maintaining a License shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this **[ordinance, bylaw, regulation]**.
13. Issuance and maintaining a License shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.

14. Applicant agrees to maintain a closed-circuit camera system that records all sales transactions and any recording from the previous 24-hour period must be provided to any law enforcement official or municipal agent who requests such recording.
15. License Holders agree that a Registered Marijuana Dispensary will not open for business before **X:00 a.m.** and shall close no later than **X:00 pm** daily.
16. No License Holder shall allow any Dispensary Agent to sell marijuana or marijuana products until such Dispensary Agent reads this **[ordinance, bylaw, regulation]** regarding the sale of marijuana and signs a statement, a copy of which will be placed on file in the office of the License Holder, that he or she has read the **[ordinance, bylaw, regulation]**.
17. Dispensary Agents must present their Registration Card to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
18. A License is non-transferable. A new owner of a Registered Marijuana Dispensary must apply for a new License. No new License will be issued unless and until all outstanding penalties incurred by the previous License Holder are satisfied in full.
19. A License will not be renewed if the License Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding License suspensions.
20. At any given time, there shall be no more than **[number (XX)]** Licenses issued in **[city/town]**.

**E. Marijuana Sales by Registered Marijuana Dispensaries:**

1. No person shall sell marijuana from any location other than at a Registered Marijuana Dispensary that possesses a valid License to Operate a Registered Marijuana Dispensary issued by the **[city/town]**.
2. Registered Marijuana Dispensaries shall only permit Dispensary Agents to transport marijuana or MIPs on their behalf, whether between dispensaries, dispensary sites, or to registered Qualifying Patients or Personal Caregivers and follow Massachusetts Department of Public Health guidelines found in 725.110(E) which shall be made available to the **[city/town]** Police Department upon request.
3. Registered Marijuana Dispensaries shall permit entry to the Registered Marijuana Dispensary, to specifically engage in activity expressly or by necessary implication permitted by the MGL Ch. 369 and 105 CMR 725.000, to only registered Qualifying Patients, Personal Caregivers, Dispensary Agents, persons authorized by 105 CMR 725.105(P) and, subject to the requirements of 105 CMR 725.110(C)(4), outside vendors, contractors and visitors.
4. Registered Marijuana Dispensaries shall limit entry to their “Limited Access Areas” to Dispensary Agents and outside vendors, contractors and visitors meeting the requirements found at 105 CMR 725.110(C).
5. Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Holder.

6. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the licensed location.
7. No person shall distribute, or cause to be distributed, any free samples marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.
8. Registered Marijuana Dispensaries are prohibited from using self-service displays, vending machines or Non-Residential Roll-Your-Own machines.
9. The owner or other person in charge of a Registered Marijuana Dispensary shall conspicuously post signage at all entrances indicating that the entry to persons not possessing a valid Registration Card is prohibited. The signage shall be provided by **[city/town]**. The notice shall be no smaller than 8.5” by 11” and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person approaching the Registered Marijuana Dispensary.

**F. Dispensary Agent Permit:**

1. No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the **[city/town] of [city/town]** without first obtaining a Dispensary Agent Permit (Permit) issued annually by **[city/town]**.
2. As part of the Permit application process, the applicant will be provided with this **[ordinance, bylaw, regulation]**. Each applicant is required to sign a statement declaring that the applicant has read said **[ordinance, bylaw, regulation]**.
3. Each applicant is required to provide proof by means of a valid government-issued photographic identification containing the bearer’s date of birth that the applicant is 21 years old or older.
4. Each applicant is required to provide proof of a current Dispensary Agent registration, issued by the Commonwealth of Massachusetts, before a Permit can be issued.
5. The fee for a Permit shall be determined by the **[city/town] of [city/town]** annually.
6. Issuance and maintaining a Permit shall be conditioned on an applicant’s on-going compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
7. A Permit will not be renewed if the Permit Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding Permit suspensions.
8. Dispensary Agents must present their state Registration Card and Dispensary Agent Permit to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
9. Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Holder.

10. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the licensed location.
11. No Dispensary Agent shall distribute, or cause to be distributed, any free samples marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.

**G. Registration Card Holders**

1. A Qualifying Patient, Personal Caregiver or a Dispensary Agent must notify the [city/town] Police Department after he or she discovers that his or her Registration Card has been lost or stolen.
2. A Qualifying Patient, Personal Caregiver or a Dispensary Agent must carry his or her Registration Card at all times while in possession of marijuana.
3. A registered Qualifying Patient with a hardship cultivation registration, or his or her Personal Caregiver(s), must abide by the provisions of 105 CMR 725.035.

**H. Marijuana Sales by Individuals:**

1. The sale of marijuana by any person outside of a Registered Marijuana Dispensary, including Card Holders and Dispensary Agent Permit holders, is prohibited and shall be punishable in accordance with applicable state and local laws.
2. The use of marijuana by persons who are not Card Holders, including Personal Caregivers who are Card Holders, shall be punishable in accordance with applicable state and local laws.

**I. Marijuana Possession:**

1. A Card Holder must present his or her Registration Card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.
2. A Card Holder must not possess an amount of marijuana that exceeds his/her sixty-day supply.
3. Growing marijuana is prohibited except for those possessing a valid Hardship Cultivation Registration issued by the Commonwealth of Massachusetts.

**J. Marijuana Use:**

1. The smoking of any marijuana is prohibited in locations governed by the Massachusetts Smoke-Free Workplace Law (MGL Ch. 270 §22) and by any local laws or regulations that further ban smoking.
2. The use of marijuana by all persons, including Card Holders, is prohibited in public schools, on public school grounds and on public school buses.

**K. Violations:**

1. It shall be the responsibility of the License Holder, his or her business agent and/or Permit Holder to ensure compliance with all sections of this **[ordinance, bylaw, regulation]** pertaining to his or her distribution of marijuana and/or marijuana products. The violator shall receive:
  - a In the case of a first violation, a fine of three hundred dollars (\$300.00).
  - b In the case of a second violation within **[24, 36, 48, 60]** months of the date of the current violation, a fine of three hundred dollars (\$300.00) and the License or Permit shall be suspended for seven (7) consecutive business days.
  - c In the case of three or more violations within a **[24, 36, 48, 60]** month period, a fine of three hundred dollars (\$300.00) and the License or Permit shall be suspended for thirty (30) consecutive business days.
2. Refusal to cooperate with inspections pursuant to this **[ordinance, bylaw, regulation]** shall result in the suspension of the License or Permit for thirty (30) consecutive business days.
3. In addition to the monetary fines set above, any License Holder or Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his or her License or Permit is suspended shall be subject to the suspension of all **[city/town]** -issued permits and licenses for thirty (30) consecutive business days.
4. The **[city/town department]** shall provide notice of the intent to suspend a License or Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The License Holder or its business agent or Permit Holder shall have an opportunity to be heard at such hearing and shall be notified of the **[city/town]**'s decision and the reasons therefore in writing. After a hearing, the **[city/town]** shall suspend the License or Permit if the **[city/town]** finds that a violation of this **[ordinance, bylaw, regulation]** occurred. For purposes of such suspensions, the **[city/town]** shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the License. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this regulation.
5. An individual or person who violates Sections I and J of this **[ordinance, bylaw, regulation]** shall be subject to a penalty of one hundred dollars (\$100.00) for each violation.

**L. Non-Criminal Disposition:**

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

**M. Enforcement:**

Enforcement of this regulation shall be by the [list here the city/town departments].

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the [city/town department] or its designated agent(s) and they shall investigate.

**N. Severability:**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

**O. Effective Date:**

This regulation shall take effect on \_\_\_\_\_, 2013.

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