



Town of Belmont Board of Health

Regulations Regarding the Restriction of Adult Use Marijuana

Section 1: Statement of Purpose and Authority

Whereas, Massachusetts voters approved the regulation of the use and distribution of marijuana not medically prescribed on November 8, 2016 pursuant to Chapter 344 of the Acts of 2016, as amended by Chapter 55 of the Acts of 2017, an Act to Ensure Safe Access to Marijuana; and

Whereas, the prevention of the illegal sale and use of marijuana, particularly involving youth is a public health priority; and

Whereas, the state regulation at 935 CMR 500.000 allows for lawful local oversight and regulation, including local fee requirements; and

Whereas, local oversight and inspection of marijuana establishments is within the legal authority of local boards of health to protect public health, safety and welfare; and

Whereas, marijuana use directly affects the brain - specifically the parts of the brain responsible for memory, learning, attention, decision making, coordination, emotions and reaction time¹; and

Whereas, for adolescents, using marijuana may reduce attention, memory, and learning functions and affect how the brain builds connections between the areas necessary for these functions¹; and

Whereas the Massachusetts Supreme Judicial Court had held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect public health by any rational means.”²

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of all of Belmont's residents and pursuant to the authority granted to it pursuant to M.G.L. c. 111, §31, the Belmont Board of Health enacts a Regulation Regarding the Restriction of Adult Use Marijuana in the Town of Belmont as follows.

¹ Center for Disease Control (2017). *Marijuana and Public Health-Health Effects*. Retrieved from <https://www.cdc.gov/marijuana/health-effects.htm>

² Druzik et al v. Board of Health of Haverhill, 324 Mass. 129 (1949)

Section 2: Definitions

For the purpose of these regulations, the following definitions shall apply:

Board: The Board of Health of the Town of Belmont

Consumer: A person who is at least 21 years of age

Employee: Any individual person who performs services for an employer, including any person who volunteers their services.

Employer: An individual person, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Belmont or any agency thereof, which utilizes the services of one (1) or more individual employees or volunteers.

Marijuana or Marihuana: All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided that "Marijuana" shall not include: (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

Marijuana Establishment Agent: Board member, director, employee, executive, manager or volunteer of a Marijuana Establishment, who is 21 years of age or older.

Marijuana Products: Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Establishment: Any type of marijuana-related business licensed by the Cannabis Control Commission (CCC) pursuant to 935 CMR 500.050, including a marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer independent testing laboratory, marijuana retailer, marijuana research facility, marijuana transporter, marijuana micro-business, or any other type of licensed marijuana-related business (except for a medical marijuana treatment center).

Medical Marijuana Treatment Center (MTC): An entity registered under 105 CMR 725.100, which acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, MTC refers to the sites for dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or retail store, or the agents of designees of any of the foregoing; or of any establishment engaged in the sale of marijuana products.

Self-Service Display: Any display from which customers may select a marijuana product, as defined herein, without assistance from an employee or store personnel.

Section 3: Marijuana Sales to Persons under the Minimum Legal Sales Age Prohibited

1. No person shall sell marijuana products or permit marijuana products, as defined herein, to be sold to a person under the minimum legal sales age or give marijuana products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Belmont is 21.
2. Identification: Upon entry into the premises of a marijuana retailer by an individual, a Marijuana Establishment agent shall immediately inspect the individual's proof of identification and determine the individual's age. Each person selling or distributing marijuana products, as defined herein, shall verify the age of the purchaser by means of photographic identification containing the bearer's date of birth (using government identification). An individual shall not be admitted to the premises unless the marijuana retailer has verified that the individual is 21 years of age or older by an individual's proof of verification, except persons in possession of a registration card demonstrating that they are a registered qualifying patient with the Medical Use of Marijuana Program (105 CMR 725.000 or 935 CMR 501.000) may enter.
3. Required Signage: The owner or other person(s) in charge of the retail store or other place used to sell marijuana products, as defined herein, at retail shall conspicuously post signage provided by the Belmont Board of Health that discloses current referral information about substance cessation, warnings regarding driving under the influence (MGL c 90 s24), facts regarding substance abuse signs and symptoms and any other information as required by the Board and/or Cannabis Control Commission.
 - a. The owner or other person(s) in charge of the retail store or other place used to sell marijuana products, as defined herein, at retail shall conspicuously post a sign stating that "The sale of marijuana products to someone under Belmont's minimum legal sales age of 21 years is prohibited."
 - b. All required notices and signage shall be no smaller than 8.5 inches by 11 inches 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 standing at or approaching the cash register. The notice(s) and signage shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than seven (7) feet from the floor.
4. All retail sales of marijuana products, as defined herein, must be face-to-face between the seller and the consumer and occur at the permitted location, unless and until delivery of marijuana is licensed for the establishment in compliance with all rules and regulations set forth in 935 CMR 500.145 and 500.146 and 935 CMR 501.145 as applicable.

Section 4: License Types

1. Cultivation and Craft Marijuana Cultivator Cooperative, Microbusiness, Manufacturing, Independent Testing Laboratory, Third Party Transporter, Existing Licensee Transporter, Research, and Social Consumption (Primary Use and Mixed Use) licenses are prohibited.

Section 5: Adult Use Marijuana Sales Permits

1. No person shall sell or otherwise distribute marijuana products, as defined herein, within the Town of Belmont without first obtaining an Adult Use Marijuana Sales Permit issued annually by the Belmont Board of Health. Only owners of establishments with a permanent, non-mobile location in Belmont, who meet and comply with the requirements outlined in 935 CMR 500.000, are eligible to apply for a permit and sell marijuana products at the specified location in Belmont.
2. As part of the application process, the applicant must submit a copy of their completed Management and Operations Profile packet and Written Operating Procedures, as outlined in 935 CMR 500.101 and 935 CMR 500.105, to the Belmont Board of Health. The applicant will be provided with the Belmont regulation and each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for marijuana sales on state and local laws regarding the sale of marijuana products and this regulation.
3. Each applicant who sells marijuana products is required to provide proof of a current Marijuana Retail License issued by the Massachusetts Cannabis Control Commission, or its designee, before an Adult Use Marijuana Sales Permit can be issued.
4. The fee for an Adult Use Marijuana Sales Permit shall be determined by the Belmont Board of Health annually.
5. A separate permit is required for each retail establishment selling marijuana products, as defined herein.
6. Each Adult Use Marijuana Sales Permit shall be displayed at the retail establishment in a conspicuous place.
7. No Adult Use Marijuana Sales Permit holder shall allow any employee to sell marijuana products, as defined herein, until such employee reads this regulation and state laws regarding the sale of marijuana products and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.
8. An Adult Use Marijuana Sales Permit is non-transferable. A new owner of an establishment that sells marijuana products, as defined herein, must apply for a new permit. No new permits will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
9. Issuance of an Adult Use Marijuana Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.
10. An Adult Use Marijuana Sales 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.

Section 6: Additional Operating Requirements

1. All permitted Adult Use Marijuana Sales establishments shall comply with the following sanitary requirements:

- a. The Adult Use Marijuana Sales Permit applicant shall submit architectural plans for the building or renovation of his or her marijuana establishment to the Belmont Board of Health for review. Construction or renovation related to plans shall not begin until the Board, or its designee(s), has granted permission. Submission of such plans shall be accompanied by a fee determined by the Board.
 - b. The manufacture of all edible marijuana products and food products containing marijuana shall be conducted in a state-licensed marijuana manufacturing facility and in accordance with all applicable state regulations. Marijuana establishments and agents shall comply with 105 CMR 500.000, "Good Manufacturing Practices for Food" and 105 CMR 590.000, "Minimum Sanitation Standards for Food Establishments" relative to edible marijuana products.
 - c. Marijuana establishments and agents shall comply with 935 CMR 500.000 (and 935 CMR 501.000 where applicable).
2. A marijuana establishment shall submit a security plan, as outlined in 935 CMR 500.110, for review to the Belmont Board of Health, detailing all security measures taken to ensure patient, consumer and community safety, and eliminate unauthorized access to the premises.

Section 7: Self Service Displays

1. All self-service displays of marijuana products, as defined herein, are prohibited.

Section 8: Out of Package Sales and Waste Disposal

1. The sale or distribution of marijuana products, as defined herein, in any form other than in original factory-wrapped packaging is prohibited, including the repackaging or dispensing of any marijuana product, as defined herein, for retail sale. All marijuana products must remain in the original packaging and may not be further processed.
2. A retailer of marijuana products must provide the Belmont Board of Health with a written plan for disposal of all waste, including waste composed of or containing finished marijuana products. The retailer must keep a copy of their waste disposal records on site, in compliance with 935 CMR 500.105 (L).

Section 9: Social Consumption and Sampling

1. The sale of single servings of marijuana products, as defined herein, to consumers for consumption or use on the premises is prohibited.
2. Any consumption or use of marijuana products, including the sampling of products, on the premises of a marijuana establishment is prohibited.

Section 10: Marijuana Products Vending Machines

1. All vending machines containing marijuana products, as defined herein, are prohibited.

Section 11: Violations

1. Any person selling marijuana products at retail without a valid marijuana sales permit, as stated in Section 5 of this regulation, shall be warned and required to correct the violation within twenty-

four (24) hours of notification. If the violation is not corrected, they will be subject to a fine of one thousand dollars (\$1,000.00) per day that the violation exists.

2. Any person who violates Section 4 of this regulation and has sold marijuana products to a person under 21 (and without a valid medical marijuana registration card where applicable), shall be subject to a penalty of:

\$1,000.00 plus 1-day suspension for the first offense;

\$1,000.00 plus 7-day suspension for the second offense;

\$1,000.00 plus 21-day suspension for the third offense.

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

3. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Adult Use Marijuana Sales Permit for thirty (30) consecutive business days.
4. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of marijuana products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days.
5. The Belmont Board of Health shall provide notice of intent to suspend or revoke an adult use marijuana sales permit, granted pursuant to this regulation, upon determination that a permit holder has committed a violation of this regulation. Notice shall contain the reasons therefore 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 permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Board's decision, and the reasons therefore in writing. After a hearing, the Board shall suspend or revoke the adult use marijuana sales permit if the Board finds that a violation of this regulation occurred.
6. All marijuana products shall be removed from the premises upon suspension or revocation of the adult use marijuana sales permit. Failure to remove all marijuana products, as defined herein, shall constitute a separate violation of this regulation.

Section 12: 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.

Section 13: Enforcement

1. Enforcement of this regulation shall be by the Belmont Board of Health or its designated agent(s)
2. Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Belmont Board of Health or its designated agent(s) and the Board shall investigate.

Section 14: Severability

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

Section 15: Adoption and Effective Date

The Board of Health adopted this Regulation at the Board of Health Regular Public Meeting held March 26, 2018.

This Regulation, as amended, shall become effective March 26, 2018.

The Board of Health adopted this amended Regulation at the Board of Health Regular Public Meeting held January 27, 2023.

This Regulation, as amended, shall become effective January 27, 2023.

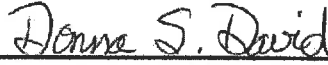
Belmont Board of Health



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