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FRAMINGHAM CITY COUNCIL

ORDER NO. 2018-063-003
REQUEST OF THE RECREATIONAL MARIJUANA TASK FORCE

UPON THE REQUEST OF THE RECREATIONAL MARIJUANA TASK FORCE, THE CITY OF FRAMINGHAM, THROUGH THE FRAMINGHAM CITY COUNCIL, IT IS SO ORDERED:

that the City Council vote to approve the amendments to Articles V and VIII of the General Bylaw (or Ordinances) as presented on September 25, 2018:

- To amend the first sentence of Article VIII, Section 9.4 j to read as follows: "Ensure that no marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended) or cannabinoids or products containing the same are sold by an adult-use marijuana establishment to anyone under the age of 21 years".

The full Ordinance language is attached to this Order.

FIRST READING:

YEAS: Cannon, Giombetti, Grove, King, Rossi, Richardson, Shepard, Sisitsky, Steiner, Torres, Tully Stoll

NAYS: None

ABSTAIN: None

ABSENT: All Council Members were present

PASSED IN COUNCIL: SEPTEMBER 6, 2018

SECOND READING:

YEAS: Cannon, Giombetti, Grove, King, Richardson, Rossi, Shepard, Sisitsky, Steiner, Tully Stoll

NAYS: Torres

ABSTAIN: None

ABSENT: All Members were present

PASSED IN COUNCIL: SEPTEMBER 25, 2018

A True Record, Attest:

9/28/2018

Date Approved

Lisa A. Ferguson, City Clerk

10/5/18

Date Approved

Yvonne M. Spicer, Mayor

General Ordinance adding to Article V, Health, a new Section 1.5 Prohibition of Consumption or Ingestion of Marijuana or Tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended), Cannabinoids or Products Containing the same in Public Places

1.5.1 Ingestion of marijuana in public places is prohibited

Smoking, ingesting, or otherwise using or consuming marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, § 1, as amended), cannabinoids or products containing the same is hereby prohibited in Framingham in enclosed or outdoor space belonging to, or maintained by, healthcare facilities, public places, public transportation vehicles, retail stores, retail food stores, smoking bars, retail tobacco stores, membership associations also known as private clubs, food establishments licensed and/or permitted by the Board of Health of the City of Framingham, or bar rooms licensed and/or permitted by the Board of Health and/or the Board of Selectmen or City Council of the City of Framingham, in accordance with M.G.L.c. 270, §22, or while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, pond, lake, river, waterway, public building, schoolhouse, school grounds, cemetery, parking lot, parking garage, or parking area or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

1.5.2 Marijuana kept or cultivated for personal use shall be secured by lock

Marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, § 1, as amended), cannabinoids or products containing the same shall be kept in a locked container. Marijuana plants cultivated for personal use shall be kept in an enclosed area that is secured by lock.

1.5.4 Non-criminal disposition

This Ordinance may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40, § 21, or by noncriminal disposition pursuant to M.G.L. c. 40, § 21D, by the Mayor, City Council, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L.

1.5.5 [Reserved]

General Ordinance adding to Article VIII, Business and Commerce Provisions, a new Section 9, MARIJUANA ESTABLISHMENTS:

9.1 Purpose and Intent

The purpose of this Ordinance is to protect public health, safety and welfare of the inhabitants of the City of Framingham, and to provide regulations to ensure that Marijuana Establishments and Medical Marijuana Treatment Centers, as the same are defined in M.G.L.c. 94I and M.G.L.c. 94G and in the regulations of the Cannabis Control Commission promulgated thereunder, are operated and maintained in a manner that promotes public safety, health and welfare, and in a clean and safe condition.

9.2 Definitions

The definitions set forth in M.G.L. c. 94I and M.G.L. c. 94G are incorporated herein by reference.

9.3 Licensing

No person shall operate a Marijuana Establishment or a Medical Marijuana Treatment Center unless duly licensed so to do by the Commonwealth of Massachusetts.

The number of Marijuana Retailers in Framingham shall not exceed six (6), which is 20 per cent of the number of licenses issued within the City of Framingham for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws, as set forth in M.G.L. c. 94G, §3(a)(2)(ii).

9.4 General Operational Requirements

Any person operating a Marijuana Establishment or a Medical Marijuana Treatment Center or who sells, solicits or display goods, articles, marijuana related goods, wares, or merchandise for the ingestion of any marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended), cannabinoids or products containing the same shall:

- a. Enter into a host agreement pursuant to M.G.L. c. 94G, § 3(d) containing the following provisions:
 - i. Hours of operation;
 - ii. Reasonable restrictions of public signage that are no more restrictive than those set forth in the City's then-applicable "RULES AND REGULATIONS GOVERNING ALCOHOLIC BEVERAGES";
 - iii. Reasonable conditions concerning the delivery or transportation of cannabis;
 - iv. Security and safety plan developed in cooperation with the Framingham Police Department and Fire Department, which shall include, but not be limited to: parking lot surveillance; detail policing; prohibition against entertainment; and prohibition

- against on-premises consumption of marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, 1, as amended), cannabinoids or products containing the same;
- v. One-time payment of community impact deposit prior to commencing operations; and
 - vi. Annual payment of community impact fee.
- b. Enforce state laws and the regulations promulgated thereunder with respect to the operation of the licensed business
 - c. Ensure that all business within the licensed premises and within areas under the licensee's control that abut the licensed premises, is conducted in a responsible manner so that no activity shall detract from the quality of life in the City generally, or in the neighborhood in which the licensed premises is located. This shall include, but shall not be limited to, ensuring that there shall be no: disorder; unlawful use, sale, barter or exchange of drugs or alcohol; indecency; prostitution; assaults; lewdness; or gambling on or about the premises, including within any parking area on the licensed premises.
 - d. Provide for regular training of employees engaged in selling or producing marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended), cannabinoids or products containing the same, in accordance with the Cannabis Control Commission's Responsible Vendor requirements set forth in 935 CMR 500.105(2).
 - e. Promptly report to the Police Department all instances of attempted purchases or procurement of marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended), cannabinoids or products containing the same by minors, including attempts to gain access to premises upon which such products are produced or sold and appropriate action taken by the licensee in response thereto. Such appropriate action shall include: i) Reporting to the Registry of Motor Vehicles instances involving possession or use of a false, forged or counterfeit license to operate motor vehicles or identification card issued by the Registry of Motor Vehicles; ii) confiscation of liquor identification cards or motor vehicle operator's license presented by the minor; and iii) if a purchase was made or service was procured, the name of the licensee's employee participating therein.
 - f. Ensure that the licensee's premises including the exterior, are kept clean, neat and sanitary at all times.
 - g. Ensure that exterior doors to the licensed premises remain closed during all times that the licensed premises are open for business.
 - h. Ensure that exterior lighting and functioning security cameras or recording mechanism equipment are placed in such a manner to allow for complete interior and exterior observation of the licensed premises at all times.

- i. Ensure that the Framingham Police Department, the Framingham Fire Department, and authorized agents of the licensing authority shall have immediate access to the licensed premises at all times and under all circumstances.
- j. Ensure that no marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended) or cannabinoids or products containing the same are sold by an adult-use marijuana establishment to anyone under the age of 21 years. It shall be a defense to any alleged claim of sale of marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended) or cannabinoids or products containing the same to a minor if the licensee can show that the patron produced a valid Massachusetts driver's license, a valid Massachusetts Liquor Identification Card, a valid Passport issued by the United States or by a government of a foreign country recognized by the United States government, or a valid U.S. issued Military ID card or a valid U.S. Passport Card. Licensees may accept out of state licenses as proof of age, but licensees shall bear the risk that such licenses are real and valid.
- k. No marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended) or products containing marijuana or tetrahydrocannabinol shall be sold to an intoxicated person.
- l. No alcoholic beverages may be sold or advertised on the premises of a cannabis establishment, and no licensee may display any advertisement or sign upon which appears any brand name of an alcoholic beverage product on the façade of a cannabis establishment.
- m. No licensee shall provide or allow on-premises sales promotion events or entertainment.
- n. No licensee shall make any distinction, discrimination or restriction on account of race, color, creed, sex, sexual orientation or ancestry relative to the admission or treatment of any person.

9.5 Prohibitions and Standards

Only on-premises purchase of marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended) or products containing marijuana or tetrahydrocannabinol is permitted under this Ordinance.

No person who operates a Marijuana Establishment or a Medical Marijuana Treatment Center shall offer for on-premises ingestion, consumption or use, or allow on-premises ingestion, consumption or use, of any marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended), cannabinoids or products.

No person who operates a Marijuana Establishment or a Medical Marijuana Treatment Center shall offer marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended), cannabinoids or products containing the same as a gift.

Any person offering or allowing on-premises ingestion, consumption or use, of marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, Section 1, as amended) or products containing marijuana or tetrahydrocannabinol shall in violation of this section shall be subject to civil and criminal penalties, and such products containing marijuana or tetrahydrocannabinol may be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

9.6 Weights and Measures

A Marijuana Establishment or a Medical Marijuana Treatment Center shall comply with the applicable provisions of the Massachusetts Grocery Pricing Law, M.G.L. c. 94, Sections 184B-184E and the regulations promulgated by the Division of Standards enforces the accuracy of item pricing and price scanners, scales, weights and measures and those promulgated by the Attorney General as 940 C.M.R. 3.13 for applies to non-grocery stores or to the non-grocery items of a mixed-product retailer, as applicable.

9.7 Availability of Books and Records for Inspection and Data Security

A Marijuana Establishment or a Medical Marijuana Treatment Center shall ensure that no less than the minimum standards to be met in connection with the safeguarding of personal information contained in both paper and electronic records in accordance with M.G.L.c. 93H and the regulations promulgated thereunder as 201 C.M.R. 17: Standards for the Protection of Personal Information of Residents of the Commonwealth.

9.8 Applicability of Nuisance Ordinance

No cannabis establishment shall sell, solicit or display goods, articles, wares or merchandise in such a manner that violates Article V, Section 22 of the General Ordinance, regarding Nuisance.

No Marijuana Establishment shall emit or allow to be emitted from the premises any smoke, vapor, or aroma from any of the products sold therein.

9.9 Secure Disposal of Refuse Containing Marijuana or Tetrahydrocannabinol

A Marijuana Establishment shall ensure that refuse containing marijuana or tetrahydrocannabinol, or cannabinoids is disposed of securely and maintained under licensee's control at all times.

9.10 Community Impact Fees

M.G.L. c. 94G, Section. 3(d) allows municipalities to impose a community impact fee that is reasonably related to the costs imposed upon the municipality by the operation of the cannabis establishment. The fee to operate a Marijuana Establishment shall be up to 3% of gross sales. The license shall be January 1 through December 31 of each year.

9.11 Applicability

The provisions of this Ordinance shall apply to all Marijuana Establishments or a Medical Marijuana Treatment Center located within the City of Framingham.

9.12 Enforcement

Civil penalties imposed pursuant to this Ordinance may also be enforced by the Framingham Police Department by utilizing the non-criminal disposition procedures provided in M.G.L. c. 40, Section 21D and any fines imposed shall inure as provided therein.

9.13 Severability

In the event that any provision of this Ordinance shall be deemed illegal or otherwise unenforceable by a court of competent jurisdiction, then only that specific provision shall not be enforced, and all other sections shall remain in full force and effect.