

City of Framingham

The City Council of Framingham



ORDER NO. 2022-002-001

REQUEST OF THE ORDINANCE & RULES SUBCOMMITTEE

UPON THE REQUEST OF THE ORDINANCE & RULES SUBCOMMITTEE, THE CITY OF FRAMINGHAM, THROUGH THE FRAMINGHAM CITY COUNCIL, IT IS SO ORDERED:

That the City Council vote to adopt the Ordinance, as shown below, in order to provide Adult-Use Marijuana Licenses for up to two Medical-Use Licensees.

Whereas, On January 1, 2013, Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" took effect, permitting the medical use of marijuana for qualifying patients, physicians and health care professionals, personal caregivers for patients, or medical marijuana treatment center agents;

Whereas, On October 20, 2015, the Board of Selectmen for the Town of Framingham entered into Host Community Agreements with three entities seeking to operate Registered Marijuana Dispensaries in the Town of Framingham in accordance with regulations promulgated by the Commonwealth of Massachusetts' Department of Public Health; and

Whereas, Effective December 15, 2016, Chapter 334 of the Acts of 2016, "Legalization, Regulation, and Taxation of Marijuana" permitting the non-medical use of marijuana; and

Whereas, On October 5, 2018, the Framingham City Council adopted General and Zoning Ordinances governing marijuana establishments, including Article VIII, Section 9 of the General Ordinances restricting the number of adult-use marijuana retailers to six, i.e., "20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of chapter 138" as permitted under M.G.L. c. 94G, § 3(a) (2) (ii); and

Whereas, On November 14, 2018, pursuant to the Framingham Home Rule Charter voted April 4, 2017, Article III, Section 2 the Mayor adopted the Policy on Host Community Agreement for Marijuana Establishments and Registered Marijuana Dispensaries under which Host Community Agreements with 6 adult-use marijuana retailers were executed; and

Whereas, On August 31, 2021, the Massachusetts Supreme Judicial Court issued the decision in CommCan, Inc. v. Mansfield, 488 Mass. 291 (2021) holding in relevant part that "[t]he only condition of consequence set by [M.G.L. c. 94G, § 3 (a) (1)] is that the medical marijuana dispensary must have been "licensed or registered not later than

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July 1, 2017"; and

Whereas, The City wishes to bring the General Ordinances into conformity with Massachusetts law, be it ordained by the Framingham Council, as follows:

An Order Amending Article VIII, Section 9 of the General Ordinances to Increase the Number of Marijuana Retailers in the City of Framingham now therefore Section 9.3 (Licensing) of General Ordinance Article VIII (Business and Commerce) is hereby amended by deleting the current text and replacing it with the following:

SECTION 1.

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 eight (8), which exceeds the limitation of the number of marijuana retailers to 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 permitted by M.G.L. c. 94G, §3(a)(2)(ii), provided however that a Medical Marijuana Treatment Center holding a Provisional License for a facility located in Framingham issued on or before July 1, 2017, shall receive priority review of an application for a Host Community Agreement in accordance with the Mayor's Policy of the Mayor 02-18 on Host Community Agreement for Marijuana Establishments and Registered Marijuana Dispensaries effective November 14, 2018.

SECTION 2.

Severability

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 3.

Effective Date

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This ordinance shall take effect immediately.

FIRST READING

YEAS: Alexander, Bryant, Cannon, King, Leombruno, Long, Mallach, Ottaviani, Stefanini, Steiner, Stewart-Morales

NAYS: None

ABSTAIN: None

ABSENT: All members were present either in person or via teleconferencing

PASSED IN COUNCIL: MARCH 15, 2022

SECOND READING

YEAS: Alexander, Bryant, Cannon, Leombruno, Long, Mallach, Ottaviani, Stefanini, Steiner, Stewart-Morales

NAYS: King

ABSTAIN: None

ABSENT: All members were present either in person or via teleconferencing

PASSED IN COUNCIL: APRIL 5, 2022

A True Record, Attest:

4/6/2022

Date Approved

Lisa A. Ferguson, City Clerk
Emily L. Butler, Assistant City Clerk

4/7/22

Date Approved

Charlie Sisitsky, Mayor