

New Bedford issues guidance regarding establishment of recreational marijuana facilities

A local moratorium prohibiting the establishment of recreational marijuana facilities in New Bedford recently expired. This week the City of New Bedford is providing initial information to the public and potential applicants interested in establishing facilities.

General Guidance for the Establishment of Recreational Marijuana Facilities

In The City of New Bedford

October 9, 2018

The City of New Bedford is committed to a fair, transparent, and inclusive process for recreational marijuana establishments to open and operate in the community as allowed under Massachusetts General Law. Equally important, recreational marijuana establishments that are allowed to open and operate in New Bedford must do so in a manner that is consistent with the City's interests.

The major elements of the City's approach are outlined below. More detailed information will be contained in application documents and supporting materials to be made available later this month.

Timetable

A local moratorium prohibiting the establishment of recreational marijuana facilities in New Bedford recently expired. This week the City is providing initial information to the public and potential applicants interested in

establishing facilities. The information addresses the two separate local processes provided under Massachusetts General Law and the City Code of Ordinances:

- the Host Community Agreement (HCA) Process
- the Special Permit (SP) Process.

Pre-Eligibility Screening

Applicants for dispensary and/or cultivation facilities that seek to begin the HCA Process will be required to first complete a Screening Form. The Screening Form requests basic information about the monetary commitments, mitigation efforts, and benefits the applicant will bring to the community if the City agrees to enter into a Host Community Agreement. The commitments will cover a range of categories and uses of funds, including: hiring of city residents, use of city businesses as vendors, support for New Bedford-based charitable organizations and reimbursement for municipal services. Applicants will also use the Screening Form to indicate their willingness to agree to various terms and conditions that are important to the City.

Supporting Materials Required As Part of Pre Eligibility Screening

In conjunction with the submission of the Screening Form, applicants are required to attach the first (without an HCA Form) and third (of three) packets required under the application process of the Massachusetts Cannabis Control Commission. See directly below “Demonstration of Site Eligibility and Site Control.”

Demonstration of Site Eligibility and Site Control

The City’s requirement that applicants attach the first and third (of three) packets required by the Cannabis Control Commission effectively necessitates that HCA applicants have established a permissible location for their facility and secured an appropriate level of site control.

Applicants seeking guidance on the conformance of a particular parcel with the City's zoning ordinances, including restrictions specific to the operation of recreational marijuana facilities, are directed to contact the Department of Inspectional Services. A written determination of conformance will be provided to applicants based on the specific parcel proposed by the applicant.

Once an applicant has (1) obtain a letter from the Commissioner of Inspectional Services affirming conformance with zoning requirements, (2) has established site control consistent with Cannabis Control mission requirements, and (3) successfully assembled all materials that the Cannabis Control Commission requires to be included in the first (all but an HCA Form) and third application packets, the applicant is ready to submit a completed Screening Form (and supporting documents) to the Planning Office.

Screening Committee Review and Designations of "Preferred Negotiating Partner"

A Screening Committee will be established to evaluate the monetary commitments, mitigation efforts, and various benefits proposed in Screening Forms, as well as review the attached materials. Based on these and other relevant factors, the Committee will make recommendations to the Mayor regarding any "Preferred Negotiating Partner/s" (an applicant or applicants with which the City should commence HCA negotiations). The Mayor will then decide on which Committee recommendations to act.

The Screening Committee will meet twice annually. At each meeting, the Committee will consider applicants that have submitted all required materials during the previous six months, as well as previous applicants that wish to revise their submissions. The Screening Committee may also decide in some instances to refrain from making recommendations to the

Mayor if there are an insufficient number of competing applicants to review at a given time.

Members of the Screening Committee will include: The City Planner, Police Chief, City Solicitor, Chief Financial Officer, Health Director, Commissioner of Inspectional Services, and Director of Economic Development, or their designees. In addition, a member of the New Bedford City Council (as selected by the President of the Council) is also invited to serve as a member of the Screening Committee.

Host Community Agreement Negotiations and Public Input

The City reserves the right to reject any and all applications for a Host Community Agreement if deemed to be in the City's best interest. The City reserves the right to engage or disengage in negotiations with Preferred Negotiating Partners as its discretion and without any designated time period for the completion of negotiations. The City also reserves the right to solicit neighborhood input through public meetings (or other community outreach methods) at any time before and/or during negotiations.

Upon an Agreement being reached, the Mayor will submit the Host Community Agreement to the City Council for consideration. If approved by the City Council and signed by the Mayor, the applicant may move forward with its effort to obtain a Provisional License from the Massachusetts Cannabis Control Commission as well as move forward with its effort to obtain a Special Permit as established under the City Code.

Special Permit Process

Upon an applicant obtaining a Provisional License from the Commonwealth of Massachusetts, that applicant may then apply for a Special Permit. To assist the applicant in the SP Process, the City will hold a Pre-Permitting Meeting with the

applicant. The applicant must obtain necessary approvals from the Police Department, Fire Department, and Board of Health. The applicant must also conduct Abutter notifications, and fulfill all applicable Special Permit application requirements. The Planning Board will then conduct a public hearing and issue a decision.

Local Board Oversight

Separate from the state's licensing and oversight regime, the City intends to make use of existing municipal oversight boards to monitor and hold accountable recreational marijuana facilities once they have begun operating in the City.

The City intends to establish a local licensing authority, with similar scope and authority to the current City Licensing Board. Applicants that enter into a Host Community Agreement and obtain a Special Permit will also be required to obtain and maintain a local license issued by the new local licensing authority. The local licensing authority will have the power to exercise sanctions (including the temporary or permanent revocation of a local license) in similar fashion to sanctions presently used by the City's Licensing Board to enforce the compliance of liquor establishments with local and state regulations.

Rather than establish a separate licensing authority, it may prove to be more practical and cost-effective to assign responsibility for the local licensing of marijuana facilities to the City's Licensing Board. A final determination regarding this approach has not been made at this time.

In addition, over the next several months the New Bedford Board of Health will develop and adopt health-related regulations governing recreational marijuana facility operations. The Board of Health will take steps to ensure that the public has the opportunity to comment on any proposed regulations, and it will consider community feedback

in its decisions regarding its regulations.

Further Information

Questions may be directed to the Office of Planning, Room 303,
133 William Street, New Bedford; 508-
979-1488.