

935 CMR: CANNABIS CONTROL COMMISSION

935 CMR 500.000: ADULT USE OF MARIJUANA

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### 500.002: Definitions

For the purposes of 935 CMR 500.000, the following terms shall have the following meanings:

Administrative Hold means a hold requiring temporary isolation of Marijuana or Marijuana Products by a Licensee or Registrant pending further investigation.

Adult-use Cannabis or Marijuana means Marijuana that is cultivated, Processed, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Adult-use Cannabis or Marijuana Products means Marijuana Products that are Processed, Manufactured, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Advanced Core Curriculum means the advanced training curriculum taught by a Responsible Vendor Trainer that may be taken by Marijuana Establishment Agents after completing the Basic Core Curriculum under 935 CMR 500.105(2)(b).

Advertising means a form of marketing communication that employs a sponsored, non-personal message to sell or promote a Marijuana Establishment's Brand Name, Marijuana Establishment Branded Good, service, product or idea.

Affixed means the attachment of a label or other packaging material so that it is not easily removed or lost.

Agent Registration Card means an identification card currently and validly issued by the Commission to a Marijuana Establishment, MTC or Laboratory Agent. The Agent Registration Card allows access into Commission supported databases. The card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities of those individuals exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94G and 94I, and 935 CMR 500.000 and 501.000.

Area of Disproportionate Impact means a geographic area identified by the Commission for the purposes identified in M.G.L. c. 94G, § 4(a½)(iv), and which has had historically high rates of arrest, conviction, and incarceration related to Marijuana crimes.

Arming Station means a device that allows control of a security alarm system.

Assignment for the Benefit of Creditors means a contractual agreement with a third-party by which the Licensee assigns all of its assets and liabilities to such third-party in order to satisfy the Licensee's obligations to its creditors by liquidating the assets.

Basic Core Curriculum means the foundational training curriculum required of all Marijuana Establishment Agents taught by a Responsible Vendor Trainer under 935 CMR 500.105(2)(b).

Beverage means a liquid intended for drinking.

Bona Fide Healthcare Provider Patient Relationship means a relationship between a Certifying Healthcare Provider, acting in the usual course of their professional practice, and a Patient in which the healthcare provider has conducted a Clinical Visit, completed and documented a full assessment of the Patient's medical history and current medical condition, has explained the potential benefits and risks of Marijuana use, and has a role in the ongoing care and treatment of the Patient.

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Brand Name means a brand name (alone or in conjunction with any other word), registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker associated with a Marijuana Establishment.

Brand Name Sponsorship means the payment by a Marijuana Establishment in exchange for use of a Brand Name:

- (1) to sponsor an athletic, musical, artistic, or other social or cultural event; or
- (2) to identify, advertise, or promote such event, or an entrant, or participant of such an event.

Cannabinoid means any of several compounds produced by Marijuana plants that have medical and psychotropic effects.

Cannabinoid Profile means the amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a Marijuana Product. Amounts of other Cannabinoids may be required by the Commission.

Cannabis means Marijuana as defined herein.

Canopy means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide at any point in time, including all of the space(s) within the boundaries. Canopy may be noncontiguous, but each unique area included in the total Canopy calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide are being cultivated using a shelving system, the surface area of each level shall be included in the total Canopy calculation.

Card Holder means a Registered Qualifying Patient, Personal Caregiver, Marijuana Establishment Agent, Medical Marijuana Treatment Center (MTC) Agent, or Laboratory Agent who holds a valid Patient or Agent Registration Card.

Caregiver means a Personal Caregiver or Institutional Caregiver.

Caregiving Institution means a hospice program, long-term care facility, or hospital duly registered currently and validly by the Commission, providing care to a Registered Qualifying Patient on the premises of the facility or through a hospice program.

Cease and Desist Order means an order to stop or restrict operations including, but not limited to, cultivation, product manufacturing, Transfer, sale, delivery, or testing, of Marijuana, Marijuana Products or Marijuana-infused Products (MIPs) by a Licensee or Registrant to protect the public health, safety or welfare.

Ceases to Operate means a Marijuana Establishment, Medical Marijuana Treatment Center (MTC) or Independent Testing Laboratory that closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that a Marijuana Establishment has Ceased to Operate based on its actual or apparent termination of operations.

Certificate of Licensure means the certificate issued by the Commission that confirms that an MTC or Independent Testing Laboratory has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000, and is currently and validly licensed by the Commission. An MTC or Independent Testing Laboratory may be eligible for a provisional or final Certificate of Licensure.

Certificate of Registration means a certificate currently and validly issued by the Commission, that confirms an individual or entity has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000 and is registered by the Commission.

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Certifying Certified Nurse Practitioner (CNP) means a Massachusetts licensed certified nurse practitioner licensed pursuant to 244 CMR 4.00: *Advanced Practice Registered Nursing*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Healthcare Provider means a Certifying CNP, a Certifying Physician or a Certifying Physician Assistant.

Certifying Physician means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy) who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Physician Assistant means a Massachusetts physician assistant licensed pursuant to 263 CMR 3.00: *Licensure of Individual Physician Assistants*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Clinical Visit means an in-person or telehealth visit during which a Certifying Healthcare Provider establishes a *Bona Fide* Healthcare Provider Patient Relationship and conducts a full assessment of the Patient's medical history and current medical condition, including the Debilitating Medical Condition, and explains the potential benefits and risks of Marijuana use. A Clinical Visit for an initial Certificate of Registration shall be performed in-person.

Clone means a clipping from a Cannabis or Marijuana plant that can be rooted and grown.

Close Associate means a Person who holds a relevant managerial, operational or financial interest in the business of an applicant or Licensee and, by virtue of that interest or power, is able to exercise a significant influence over the corporate governance of a Marijuana Establishment, an MTC or Independent Testing Laboratory licensed under 935 CMR 500.000. A Close Associate is deemed to be a Person or Entity Having Direct or Indirect Control.

Colocated Marijuana Operations (CMO) means an MTC operating under a License pursuant to 935 CMR 501.000: *Medical Use of Marijuana* and a Marijuana Establishment operating under at least one License pursuant to 935 CMR 500.000 on the same Premises. Colocated Marijuana Operations pertain to cultivation, product manufacturing, and retail licenses, but not any other adult-use License.

Commission means the Massachusetts Cannabis Control Commission as established by M.G.L. c. 10, § 76, or its representatives. The Commission has authority to implement the state Marijuana laws which include, but are not limited to, St. 2016, c. 334, The Regulation and Taxation of Marijuana Act, as amended by St. 2017, c. 55, An Act to Ensure Safe Access to Marijuana; M.G.L. 10, § 76, M.G.L. c. 94G; M.G.L. c. 94I; 935 CMR 500.000 and 935 CMR 501.000: *Medical Use of Marijuana*.

Community Impact Fee (CIF) means impact fee(s) claimed by a Host Community in relation to the operations of a particular Marijuana Establishment or MTC which have been certified by the Commission, or ruled upon by a court of competent jurisdiction, as being Reasonably Related to the actual costs imposed on a Host Community by a Marijuana Establishment or MTC's operations.

Commission Delegee(s) means other state or local officials or agencies working in cooperation with the Commission by agreement, to carry out the Commission's responsibilities and to ensure compliance with the adult-use and medical-use, laws, and any other applicable federal or state laws.

Confidential Application Materials means any electronic or written document, communication or other record pertaining to an application for licensure or registration that is required to be confidential or protected from disclosure by law which includes, but is not limited to, personally identifiable information concerning an applicant, Registrant, or Licensee; background check information or Criminal Offender Record Information (CORI) as defined by 803 CMR 2.02: *Definitions*, or Criminal History Record Information (CHRI) as defined by 803 CMR 7.02: *Definitions*; and information that implicates security concerns.

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Confidential Database means the Commission database that holds data concerning:

- (a) Qualifying Patients issued a Registration Card for medical use of Marijuana;
- (b) Healthcare professionals registered to issue Written Certifications;
- (c) MTCs;
- (d) Quantity of medical-use Marijuana dispensed to a Card Holder; and
- (e) Any other pertinent information.

Confidential Information means information that is legally required to be kept confidential, or that is protected from disclosure by a legally recognized privilege. This includes, but is not limited to, M.G.L. c. 4, § 7, cl. 26 and M.G.L. c. 94I, §§ 2(e) and 3.

Confidential Investigatory Materials means any electronic or written document, communication or other record pertaining to an investigation, which concerns:

- (a) A possible violation of a statute, regulation, rule, practice or procedure, or professional or industry standard, administered or enforced by the Commission;
- (b) An ongoing investigation that could alert subjects to the activities of an investigation;
- (c) Any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness;
- (d) Investigative techniques the disclosure of which would prejudice the Commission's future investigative efforts or pose a risk to the public health, safety or welfare; or
- (e) The background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Confidential Records means any electronic or written record required to be kept confidential or protected from disclosure by law, which includes, but is not limited to, Confidential Application Materials, Confidential Social Equity Application Materials, Confidential Investigatory Materials, and Protected Patient Records (as defined in 935 CMR 501.002: *Protected Patient Records*).

Confidential Social Equity Application Materials means any electronic or written document, communication or other record pertaining to an application for the Social Equity Program that is required to be confidential or protected from disclosure by law which includes, but is not limited to, CORI as defined by 803 CMR 2.02: *Definitions*, or CHRI as defined in 803 CMR 7.02: *Definitions*.

Consumer means a person who is 21 years of age or older.

Court Appointee shall mean a person or entity appointed by a court of competent jurisdiction to exercise court oversight with respect to the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee including, without limitation, a receiver, custodian, guardian, trustee, and executor or administrator of estate. This could include a person or entity preapproved or recommended by the Commission or its delegee appointed by the court.

Court Supervised Proceeding shall mean a proceeding where a court of competent jurisdiction supervises the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee through a Court Appointee.

Craft Marijuana Cooperative means a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers.

Criminal Offender Record Information (CORI) shall have the same meaning as defined by 803 CMR 2.02: *Definitions*.

Cultivation Batch means a collection of Cannabis or Marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical Propagation and cultivation treatment including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. Clones that come from the same plant are one batch. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Cultivation Batch for the purposes of production tracking, product labeling and product

recalls.

Debilitating means causing weakness, cachexia, wasting syndrome, intractable pain, or nausea, or impairing strength or ability, and progressing to such an extent that one or more of a patient's major life activities is substantially limited.

Debilitating Medical Condition means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, and multiple sclerosis (MS), when such diseases are debilitating, and other Debilitating conditions as determined in writing by a Qualifying Patient's healthcare provider.

Delivery Agreement means a contract between a licensed Marijuana Establishment and a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement to deliver Marijuana or Marijuana Products from the Marijuana Establishment directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers, under the provisions of a Delivery License.

Delivery Endorsement means authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to Consumers.

Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.

Delivery License means either a Marijuana Courier License or a Marijuana Delivery Operator License.

Delivery Licensee means either a Marijuana Courier or a Marijuana Delivery Operator authorized to deliver Marijuana and Marijuana Products directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers.

Department of Agricultural Resources (MDAR) means the Massachusetts Department of Agricultural Resources, unless otherwise specified. MDAR has jurisdiction over Hemp and Pesticides.

Department of Criminal Justice Information Services (DCJIS) means the Massachusetts Department of Criminal Justice Information Services, unless otherwise specified. DCJIS shall have the same meaning as defined in 803 CMR 2.02: *Definitions*.

Department of Public Health (DPH) means the Massachusetts Department of Public Health, unless otherwise specified. DPH is the agency that administered the Medical Use of Marijuana Program prior to 2019.

Department of Revenue (DOR) means the Massachusetts Department of Revenue, unless otherwise specified.

Department of Unemployment Assistance (DUA) means the Massachusetts Department of Unemployment Assistance, unless otherwise specified.

Duress Alarm means a silent security alarm signal generated by the entry of a designated code into an Arming Station that signals an alarm user is under duress and turns off the system.

Economic Empowerment Priority Applicant means an applicant who, as an entity or through an individual certified by the Commission in 2018, meets and continues to meet three or more of the following six criteria, at least one of which shall be a majority-equity-ownership criterion:

1. Majority-equity-ownership Criteria:
  - a. A majority (more than 50%) of ownership belongs to people who have lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission.

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- b. A majority (more than 50%) of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities.
  - c. A majority (more than 50%) of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent.
2. Additional Criteria:
- a. At least 51% of current employees or subcontractors reside in Areas of Disproportionate Impact and by the first day of business, the ratio will meet or exceed 75%.
  - b. At least 51% of employees or subcontractors have drug-related CORI and are otherwise legally employable in Cannabis enterprises.
  - c. Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in Areas of Disproportionate Impact. This applicant has priority for the purposes of the review of its license application.

Edibles means a Marijuana Product that is to be consumed by humans by eating or drinking. These products, when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

Electronic Certification means a document signed or executed electronically by a Certifying Healthcare Provider, stating that in the healthcare professional's professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for the Qualifying Patient. Such certification shall be made only in the course of a *Bona Fide* Healthcare Provider-patient Relationship and shall specify the Qualifying Patient's Debilitating Medical Condition. Electronic Certifications, on submission by a Certifying Healthcare Provider to the Commission, shall automatically generate a temporary registration.

Enclosed Area means an indoor or outdoor area equipped with locks or other security devices, which is accessible only to Consumers, Marijuana Establishment Agents, Registered Qualifying Patients, or Caregivers.

Equity Holder means a person or entity that holds, or may hold as a result of one or more of the following including, without limitation, vesting, conversion, exercising an option, a right of first refusal, or any agreement that would trigger an automatic transfer of or conversion to equity, any amount of equity in a Marijuana Establishment or an MTC.

Executive means members of the board of directors, executive officers, executive director, manager, or their equivalent, of a Marijuana Establishment, MTC, or Independent Testing Laboratory.

Executive Office of Energy and Environmental Affairs (EOEEA) means the Massachusetts Executive Office of Energy and Environmental Affairs, unless otherwise specified.

Existing Licensee Transporter means an entity that is otherwise licensed by the Commission and also licensed to purchase, obtain, and possess Marijuana or Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution on behalf of other Marijuana Establishments or MTCs to other establishments, but not to Consumers.

Expedited Applicant means an applicant for a Marijuana Microbusiness, Marijuana Craft Cooperative, Independent Testing Laboratory, or Outdoor Marijuana Cultivator license; a Social Equity Participant; a minority, woman, and/or veteran-owned business; eligible for expedited review prior to other General Applicants.

Fingerprint-based Background Check Trust Fund means a fund established under M.G.L. c. 29, § 2HHHH, in which fees for fingerprint background checks are deposited.

Finished Marijuana means Usable Marijuana, Cannabis resin or Cannabis concentrate.

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Finished Marijuana Product means a Marijuana Product that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.

Flowering means the gametophytic or reproductive state of Cannabis or Marijuana in which the plant produces flowers, trichomes, and Cannabinoids characteristic of Marijuana.

Food and Drug Administration (FDA) means the United States Food and Drug Administration.

General Applicant means an applicant that has not been certified as an Economic Empowerment Priority Applicant or an MTC Priority Applicant; and is not eligible to be an Expedited Applicant.

Greenhouse means a structure or thermally isolated Enclosed Area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection or maintenance of plants.

Gross Annual Sales means the total revenue generated by an Marijuana Establishment or MTC under an individual license pertaining to the sale of Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment or MTC Branded Goods or the provision of services used by the Commission to calculate limits under M.G.L. c. 94G §3(d)(2)(i) regarding the Community Impact Fee amount properly due and payable to a Host Community.

Hardship Cultivation Registration means a registration issued to a Registered Qualifying Patient under the requirements of 935 CMR 501.027: *Hardship Cultivation Registration*.

Healthcare Clinician or Provider means a Certifying Physician, Certifying Certified Nurse Practitioner or Certifying Physician Assistant qualified under 935 CMR 501.000: *Medical Use of Marijuana*, to issue Written Certifications for the medical use of Marijuana.

Hemp means the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis, regardless of moisture content. MDAR has jurisdiction over Hemp.

Holdup Alarm means a silent alarm signal generated by the manual activation of a device that signals a robbery in progress.

Horticultural Lighting Equipment (HLE) means any lighting equipment (*e.g.*, fixtures, bulbs, ballasts, controls, *etc.*) that uses energy for the cultivation of plants, at any stage of growth (*e.g.*, germination, cloning/Mother Plants, Propagation, Vegetation, Flowering, and harvest).

Horticulture Lighting Square Footage (HLSF) means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain plants at any point in time, at any stage of growth, including all of the space(s) within the boundaries. HLSF may be noncontiguous, but each unique area included in the total HLSF calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total HLSF calculation.

Host Community means a municipality in which a Marijuana Establishment or Independent Testing Laboratory is located or in which a License Applicant has proposed locating an establishment.

Host Community Agreement (HCA) means an agreement entered into and executed between a Host Community and a License Applicant or between a Host Community and a Marijuana Establishment or MTC pursuant to M.G.L. c. 94G § 3(d).

Host Community Agreement (HCA) Waiver means a written statement executed by a Host Community and a License Applicant, or by a Host Community and a Marijuana Establishment



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or MTC, which expresses the parties' mutual intent to waive the regulatory requirement to have a Host Community Agreement.

Immature Plant means a rooted plant in the Vegetation stage of development that is no taller than eight inches, no wider than eight inches, and is in a growing/cultivating container.

Immediate Family Member means a spouse, parent, child, grandparent, grandchild, or sibling, including in-laws.

Impassible Barrier means, for the purposes of determining the 500 foot buffer zone, a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500-foot straight-line distance between a Marijuana Establishment Entrance and a School Entrance inaccessible by a pedestrian or automobile.

Independent Testing Laboratory means a laboratory that is licensed or registered by the Commission and is:

- (a) Currently and validly licensed under 935 CMR 500.101, or formerly and validly registered by the Commission;
- (b) Accredited to ISO 17025: 2017 or the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- (c) Independent financially from any MTC Marijuana Establishment or Licensee; and
- (d) Qualified to test Marijuana and Marijuana Products, including MIPs, in compliance with M.G.L. c. 94C, § 34; M.G.L. c. 94G, § 15; 935 CMR 500.000; 935 CMR 501.000: *Medical Use of Marijuana*; and Commission protocol(s).

Individual Order means a delineated amount of Finished Marijuana Products to be delivered by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to an individual Consumer and as permitted, a Marijuana Courier to a Patient or Caregiver, and not to exceed the individual possession amount limits as determined by statute.

Inducement means money or any other thing of substantial value intended to persuade or influence a person or entity to take an action or refrain from taking an action.

Informed Consent means the consent obtained by a Research Licensee from potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

Informed Consent Form means the document provided to potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

Institutional Caregiver means an employee of a hospice program, long-term care facility, or hospital providing care to a Registered Qualifying Patient on the Premises of a long-term care facility, hospital or through a hospice program.

Institutional Review Board means a specifically constituted administrative body established or designated by a Marijuana Research Facility Licensee to review and oversee the design and methods of a research project and, where human or animal subject are a component of the research, to protect the rights and welfare of persons recruited to participate in research.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans, or such other allergen identified by the U.S. Food and Drug Administration (FDA).

Laboratory Agent means an employee of an Independent Testing Laboratory registered in accordance with 935 CMR 500.029, who transports, possesses or tests Cannabis or Marijuana in compliance with 935 CMR 500.000.

Law Enforcement Authorities means local law enforcement including, but not limited to, the local police and fire departments within the municipality where the Licensee is sited, unless otherwise indicated.

License means the certificate issued by the Commission that confirms that a Marijuana

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Establishment or an Independent Testing Laboratory has met all applicable requirements pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000. A Marijuana Establishment or Independent Testing Laboratory may hold a provisional or final License.

License Applicant means a person or entity pursuing a license to operate a Marijuana Establishment or MTC who has submitted or intends to submit a license application to the Commission. A License Applicant may also be considered a prospective Marijuana Establishment.

Licensee means a person or entity on the application and licensed by the Commission to operate a Marijuana Establishment or Independent Testing Laboratory under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000. Any person or entity that solely provides initial capital to establish or operate the establishment and to whom, in return for the initial capital, requires only repayment of the loan and does not have any ownership or direct or indirect authority to control the Marijuana Establishment or Independent Testing Laboratory, will not be a Licensee.

Life-limiting Illness means a Debilitating Medical Condition that does not respond to curative treatments, where reasonable estimates of prognosis suggest death may occur within two years.

Lighting Power Density (HLPD) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage,  $(HLE / HLSF = HLPD)$  expressed as number of watts per square foot.

Limitation on Sales means a limitation on the sales of Marijuana or Marijuana Products by a Marijuana Establishment Licensee or Registrant arising from the regulations and until substantial compliance by a Licensee or Registrant with a law, regulation, guidance or other requirement for licensure or registration.

Limited Access Area means an indoor or outdoor area on the Premises of a Marijuana Establishment where Marijuana or Marijuana Products, or their byproducts are cultivated, stored, weighed, packaged, Processed, or disposed, under the control of a Marijuana Establishment, with access limited to only those Marijuana Establishment or Laboratory Agents designated by the Establishment after receipt of a Final License.

Local Approval Process means the steps involving a Host Community's cannabis licensing, including, but not limited to, zoning, all associated fees, deadlines, and meeting schedules for local bodies involved in such processes.

Local Authorities means local municipal authorities, unless otherwise indicated.

Manufacture means to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.

Marijuana (or Cannabis) means all parts of any plant of the *genus* Cannabis, not excepted in 935 CMR 500.002(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; Clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that Cannabis shall not include:

- (a) 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;
- (b) Hemp; or
- (c) The weight of any other ingredient combined with Cannabis or Marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Accessories (or Cannabis Accessories) means equipment, products, devices or materials of any kind that are intended or designed for use in planting, Propagating, cultivating, growing, harvesting, Manufacturing, compounding, converting, producing, Processing, preparing, testing, analyzing, packaging, Repackaging, storing, containing, ingesting, inhaling or otherwise introducing Cannabis or Marijuana into the human body.

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Marijuana Courier means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Cultivator means an entity licensed to cultivate, Process and package Marijuana, and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Delivery Operator or Delivery Operator means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license. A Delivery Operator is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Establishment (ME) means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee (as defined in 935 CMR 500.002: Marijuana Research Facility Licensee) Social Consumption Establishment (as defined in 935 CMR 500.002: Social Consumption Establishment) or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Establishment Agent means any Owner, employee, Executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.

Marijuana Establishment Branded Good means a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment's Brand Name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.

Marijuana Establishment Entrance means the entrance or entrances that provides ingress and egress to Consumers, Registered Qualifying Patients and Caregivers to the Marijuana Establishment.

Marijuana-infused Product (MIP) means a Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, Edibles, ointments, aerosols, oils, and Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1. MIPs are a type of Marijuana Product.

Marijuana Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana, or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, Beverages, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.

Marijuana Product Manufacturer means an entity licensed to obtain, Manufacture, Process and

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package Marijuana or Marijuana Products and to Transfer these products to other Marijuana Establishments, but not to Consumers.

Marijuana Regulation Fund means the fund established under M.G.L. c. 94G, § 14, in which fees, fines, and other monies collected by the Commission are deposited, except for fees collected by the Commission on behalf of other state agencies.

Marijuana Research Facility means the Premises at which a Marijuana Research Facility Licensee is approved to conduct research.

Marijuana Research Facility Licensee or Research Licensee means an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC, that is licensed to conduct research.

Marijuana Retailer means an entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-party Transporter.

Marijuana Vaporizer Device means a product containing concentrated marijuana oil that is converted into inhalable marijuana aerosolized vapors.

Massachusetts Resident means a person whose primary Residence is in Massachusetts.

Medical Marijuana Treatment Center (MTC), (formerly known as a Registered Marijuana Dispensary (RMD)), means an entity licensed under 935 CMR 501.101: *Application Requirements* that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Medical-use Marijuana (or Medical-use Cannabis) means Marijuana that is cultivated, Processed, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*.

Medical-use Marijuana or Marijuana Products means Marijuana Products that are Manufactured, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*.

Member means a member of a nonprofit entity incorporated pursuant to M.G.L. c. 180.

Microbusiness means an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each License and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana per year from other Marijuana Establishments for the purpose of Marijuana Product manufacturing by the Licensee.

Model Host Community Agreement means a template published by the Commission to illustrate a compliant Host Community Agreement.

Mother Plant means a marijuana plant that is grown or maintained for the purpose of generating

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Clones, and that will not be used to produce plant material for sale to another Marijuana Establishment or Medical Marijuana Treatment Center.

MTC Agent means any Owner, employee, Executive, or volunteer of an MTC, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to an MTC related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana or Marijuana Products for medical purposes.

MTC Priority Applicant means a Medical Marijuana Treatment Center (MTC) (previously, Registered Marijuana Dispensary (RMD)) certified by the Commission as an MTC Priority Applicant in 2018 upon demonstrating that it had at least a provisional Certification of Registration prior to April 1, 2018. This applicant has priority for the purposes of the review of its license application.

Mycotoxin means a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For purposes of 935 CMR 500.000, and 501.000: *Medical Use of Marijuana*, Mycotoxin shall include aflatoxin B1, aflatoxin B2, aflatoxin G1, aflatoxin G2, and ochratoxin A.

Order to Show Cause means an order issued by the Commission or Commission Delegee on a determination that there are grounds to suspend or revoke a License or registration.

Other Jurisdiction means the United States, another state, or foreign jurisdiction, or a military, territorial or Native American tribal authority.

Outdoor Cultivation means the cultivation of mature Cannabis without the use of artificial lighting in the Canopy area at any point in time. Artificial lighting is permissible only to maintain Immature or Vegetative Mother Plants.

Owner means any Equity Holder that possesses 10% equity or more in a Marijuana Establishment, MTC or Independent Testing Laboratory.

Panic Alarm means an audible security alarm signal generated by the manual activation of a device that signals a life threatening or emergency situation and calls for a law enforcement response.

Paraphernalia means "drug paraphernalia" as defined in M.G.L. c. 94C, § 1.

Patient Registration Card means a temporary or an annual Registration Card currently and validly issued by the Commission to a Registered Qualifying Patient. The Patient Registration Card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana* through Commission-supported databases. A Temporary Patient Registration issued to a Qualifying Patient shall be deemed a Registration Card.

Person means an individual or entity under the laws of the Commonwealth.

Personal Caregiver means a person, registered by the Commission, who shall be 21 years of age or older, who has agreed to assist with a Registered Qualifying Patient's medical use of Marijuana, and is not the Registered Qualifying Patient's Certifying Healthcare Provider. A visiting nurse, personal care attendant, or home health aide providing care to a Registered Qualifying Patient may serve as a Personal Caregiver, including as a second Personal Caregiver to patients younger than 18 years old.

Personal Caregiver Registration Card means a temporary or an annual Registration Card currently and validly issued by the Commission to a Personal Caregiver. The Registration Card allows access into Commission supported databases. The Registration Card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*. A temporary registration issued to a Personal Caregiver shall be deemed a Registration Card.

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Person or Entity Having Direct Control means any person or entity having direct control over the operations of a Marijuana Establishment, which satisfies one or more of the following criteria:

- (a) An Owner that possesses a financial interest in the form of equity of 10% or greater in a Marijuana Establishment;
- (b) A Person or Entity that possesses a voting interest of 10% or greater in a Marijuana Establishment or a right to veto significant events;
- (c) A Close Associate;
- (d) A Person or Entity that has the right to control or authority, through contract or otherwise including, but not limited to:
  - 1. To make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments;
  - 2. To appoint more than 50% of the directors or their equivalent;
  - 3. To appoint or remove Corporate-level officers or their equivalent;
  - 4. To make major marketing, production, and financial decisions;
  - 5. To execute significant (in aggregate of \$10,000 or greater) or exclusive contracts; or
  - 6. To earn 10% or more of the profits or collect more than 10% of the dividends.
- (e) A Court Appointee or assignee pursuant to an agreement for a general assignment or Assignment for the Benefit of Creditors; or
- (f) A Third-party Technology Platform Provider that possesses any financial interest in a Delivery Licensee including, but not limited to, a Delivery Agreement or other agreement for services.

Person or Entity Having Indirect Control means any person or entity having indirect control over operations of a Marijuana Establishment. It specifically includes any Person or Entity Having Direct Control over an indirect holding or parent company of the applicant, and the chief executive officer and executive director of those companies, or any person or entity in a position indirectly to control the decision-making of a Marijuana Establishment.

Pesticide means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; provided that Pesticide shall not include any article that is a "new animal drug" within the meaning of § 201(v) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321(v)), or that has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of § 201(w) of such act (21 U.S.C. § 321(w)).

Preapproved Court Appointee means a person or entity preapproved by the Commission pursuant to 935 CMR 500.104(3)(c) to serve as a Court Appointee over a Licensee or its delegee which may be recommended to a court of competent jurisdiction.

Pre-certification Application means an application reviewed by the Commission for pre-certification prior to provisional licensure. The Pre-certification Application may be available in a form and manner determined by the Commission.

Pre-verification means the process of a Marijuana Establishment examining the identification presented by an individual Consumer to confirm that the identification is valid and matches the individual presenting it and collecting the information required by 935 CMR 500.000 prior to that Consumer being able to receive deliveries of Marijuana or Marijuana Products to the Consumer's Residence. A Marijuana Establishment may not acquire or record personal information about Consumers other than information typically required in a retail transaction.

Premises means any indoor or outdoor location over which a Marijuana Establishment or Independent Testing Laboratory or its agents may lawfully exert substantial supervision or control over entry or access to the property or the conduct of persons.

Priority Applicant means an MTC Priority Applicant (formerly a Registered Marijuana Dispensary or RMD Priority Applicant) or an Economic Empowerment Priority Applicant.

Process or Processing means to harvest, dry, cure, trim and separate parts of the Cannabis or Marijuana plant by manual or mechanical means, except it shall not include Manufacture as defined in 935 CMR 500.002.

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Product Database means a Commission-operated technology platform displaying information about Marijuana Products produced by licensed Marijuana Product Manufacturers and sold by a licensed Marijuana Retailer or Delivery Operator pursuant to 935 CMR 500.000 or an MTC pursuant to 935 CMR 501.000: *Medical Use of Marijuana*.

Production Area means a Limited Access Area within the Marijuana Establishment where Cannabis or Marijuana is handled or produced in preparation for sale.

Production Batch means a batch of finished plant material, Cannabis resin, Cannabis concentrate, or Marijuana-infused Product made at the same time, using the same methods, equipment and ingredients. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Production Batch for the purposes of production tracking, product labeling and product recalls. All Production Batches shall be traceable to one or more Cannabis or Marijuana Cultivation Batches.

Program Transfer means the transfer of the medical use of Marijuana program pursuant to St. 2017, c. 55, §§ 64 through 71, and 82, and M.G.L. c. 94I.

Propagation means the reproduction of Cannabis or Marijuana plants by seeds, cuttings, or grafting.

Protected Patient Records means any document, record or electronic or written communication related to their care provided by a medical-use Marijuana Licensee or establishment or by a Certifying Healthcare Provider that is required to be confidential or protected from disclosure by law.

Provisional Marijuana Establishment License means a License issued by the Commission confirming that a Marijuana Establishment has completed the application process and satisfied the qualifications for initial licensure.

Qualifying Patient means:

- (i) a Massachusetts Resident or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts as determined by a Certifying Healthcare Provider, who is 18 years of age or older who has been diagnosed by a Certifying Healthcare Provider as having a Debilitating Medical Condition; or
- (ii) a Massachusetts Resident, or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts as determined by a Certifying Healthcare Provider, who is younger than 18 years old who has been diagnosed by two Massachusetts licensed Certifying Physicians, at least one of whom is a board-certified pediatrician, pediatric subspecialist, oncologist, neurologist, or family physician as having a Debilitating Medical Condition that is also a Life-limiting Illness, subject to 935 CMR 501.010(11).

Quality Control Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator, a Marijuana Product Manufacturer, a Microbusiness, or a Craft Marijuana Cooperative that is provided internally to employees for purposes of ensuring product quality and making determinations about whether to sell the Marijuana or Marijuana Product.

Quarantine Order means an order to quarantine or otherwise restrict the sales or use of Marijuana, Marijuana Products, or MIPs by a Licensee or Registrant to protect the public health, safety, or welfare.

Reasonably Related means a demonstrable nexus between the actual operations of a Marijuana Establishment or MTC and an enhanced need for a Host Community's goods or services in order to offset the impact of operations. Fees customarily imposed on other non-marijuana businesses operating in a Host Community shall not be considered Reasonably Related.

Registered Qualifying Patient means a Qualifying Patient who is currently and validly issued a temporary or an annual Registration Card by the Commission.

Registrant means the holder of a Registration Card currently and validly registered with the Commission.

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Registration Card means an identification card currently and validly issued by the Commission, to a Registered Qualifying Patient, Personal Caregiver, Institutional Caregiver, Marijuana Establishment or Laboratory Agent. The Registration Card allows access into Commission supported databases. The Registration Card facilitates verification of an individual Registrant's status including, but not limited to, the identification by the Commission and Law Enforcement Authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*.

Removal of Product means an order issued against a Marijuana Establishment to remove and prohibit sales of categories of products, product types, specific product types or specific brands of products after notice and on a determination that the Marijuana or Marijuana Product poses a substantial risk to the public health, safety or welfare including, but not limited to, when the product is especially appealing to persons younger than 21 years old.

Repackage means to uniformly wrap or seal Marijuana that has already been wrapped or sealed, into a ready-made product for retail sale, without combining, infusing, or changing the chemical composition of the Marijuana.

Research Permit means a certificate indicating Commission approval to conduct a specified research project over a specified and finite period. To the extent that a Research Licensee is subject to other IRB, institutional, industry, or professional standards, they shall demonstrate compliance with those standards.

Residence means a house, condominium or apartment, and excludes, unless otherwise authorized by law, dormitories or other on-campus college or university housing; bed-and-breakfast establishments, hotels, motels or other commercial hospitality operations; and federal public housing identified at <https://resources.hud.gov/>, shelters or residential programs.

Residual Solvent means a volatile organic chemical used in the Manufacture of a Marijuana Product that is not completely removed by practical manufacturing techniques.

Responsible Vendor means a Marijuana Establishment that the Commission has determined to have completed the initial training requirements and has maintained its training requirement under 935 CMR 500.105(2).

Responsible Vendor Trainer means an independent business entity certified by the Commission to provide Responsible Vendor Training Program courses. No owner, manager, or employee of a Responsible Vendor Trainer may be a Person or Entity Having Direct or Indirect Control of a Marijuana Establishment.

Responsible Vendor Training (RVT) Program means a mandatory program that provides training courses taught by a Responsible Vendor Trainer for Marijuana Establishment Agents in order to satisfy the minimum training hours required under 935 CMR 500.105(2).

School Entrance means the entrance(s) that provide ingress and egress to students of the preexisting public or private or private school providing education in kindergarten or any grades 1 through 12 at the time of the newspaper publication of the proposed Marijuana Establishment's community outreach meeting under 935 CMR 500.101(1)(a)9.a..

SDO means the Supplier Diversity Office of the Massachusetts Operational Services Division (OSD).

Second Confirmatory Test means a second full panel of tests performed for reanalysis of a sample of Marijuana or Marijuana Products that failed an initial test for contaminants.

Seed-to-sale Electronic Tracking System means a system designated by the Commission as the system of record (Seed-to-sale SOR) or a secondary electronic tracking system used by a Marijuana Establishment or an MTC or an Independent Testing Laboratory. This system shall capture everything that happens to an individual Marijuana plant, from seed and cultivation, through growth, harvest and Manufacture of Marijuana Products and MIPs, including transportation, if any, to final sale of finished products. Seed-to-sale Electronic Tracking System shall utilize a unique-plant identification and unique-batch identification. It will also be able to



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track agents' and Registrants' involvement with the Marijuana Product. Any secondary system used by the Marijuana Establishment or an MTC or an Independent Testing Laboratory shall integrate with the SOR in a form and manner determined by the Commission.

Seed-to-sale System of Record (Seed-to-sale SOR) means the electronic tracking system designated and required by the Commission to perform a process.

Shelf-stable means able to be safely stored at room temperature in a sealed container. Shelf-stable does not include "Time/Temperature Controlled for Safety Food" as it is defined under 105 CMR 590.001(A): *Adoption of 2013 Food Code*.

Small Business means, for the purposes of 935 CMR 500.005(1)(b), an applicant or Licensee that

- (i) currently employs a combined total of 50 or fewer full-time equivalent employees in all locations or employees work less than a combined total of 2,600 hours per quarter; and
- (ii) has gross revenues of \$5 million or less, as reported to the Massachusetts Department of Revenue the year prior to the date of the Licensee's renewal application or as otherwise demonstrated in a form and manner determined by the Commission.

Social Consumption Establishment means an entity licensed to sell Marijuana or Marijuana Products and allow Consumers to consume Marijuana or Marijuana Products solely on its Premises.

Social Equity Business means a Marijuana Establishment comprised of at least 51 percent (majority) ownership of individuals who are Social Equity Program Participants, or who have been certified as meeting the Commission's criteria for designation as an Economic Empowerment Priority Applicant, or both.

Social Equity Program Participant means an individual who qualified to participate in the Social Equity Program and is designated as a program participant by the Commission.

Substantial Modification means a material change to a term of a contract that a reasonable person would understand alters the relationship between the parties. A Substantial Modification shall include, but is not limited to, shifting responsibility for the performance of a contract term or increasing or decreasing the amount of consideration being paid for performance of the contract above an amount that is *de minimis*.

Summary Suspension means the suspension of any License or registration issued under 935 CMR 500.000, and the cessation of all operations in order to protect the public health, safety and welfare.

Temporary Patient Registration means an interim registration document for patients and their Personal Caregivers generated automatically upon the Commission's receipt of a Certifying Healthcare Provider's Electronic Certification. The temporary registration document shall constitute a Registration Card for patients and their Personal Caregivers to access an MTC. Temporary registration shall expire 14 days after the Commission issues the Registration Card or on the issuance and receipt of an annual Registration Card, whichever occurs first.

Third-party Technology Platform Provider means an individual or entity that provides or hosts an internet-based application or group of applications developed for the facilitation of ordering and delivering Finished Marijuana Products, Marijuana Accessories and Branded Goods for sale or delivery by a Marijuana Retailer, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to a Consumer. A proprietary application developed by a Licensee exclusively for that Licensee's use shall not be considered to be a Third-party Technology Platform Provider. A Third-party Technology Platform Provider may not be an investor in a Delivery Licensee.

Tincture means a Cannabis-infused alcohol or oils concentrate administered orally in small amounts using a dropper or measuring spoon. Tinctures are not considered an Edibles under 935 CMR 500.000 and are not subject to the dosing limitations applicable to Edibles.

Transfer means the sale of Marijuana or Marijuana Products from a Marijuana Establishment to

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a separate Marijuana Establishment, Independent Testing Laboratory or MTC (but not to Consumers) subject to entry of the transaction in the Commission's Seed-to-sale SOR.

United States (U.S.) means the United States of America.

Unreasonably Impracticable means that the measures necessary to comply with the regulations, ordinances or bylaws adopted pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 501.000: *Medical Use of Marijuana* subject Licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a Marijuana Establishment.

Usable Marijuana means the fresh or dried leaves and flowers of the female Marijuana plant and any mixture or preparation thereof, including Marijuana, Marijuana Products or MIPs, but does not include the seedlings, seeds, stalks, roots of the plant, or Marijuana rendered unusable in accordance with 935 CMR 500.105(12)(c).

Vault means a secured, limited access storage room within a Marijuana Establishment that is outfitted with adequate security features for the purposes of storing Marijuana or Marijuana Products or cash. A vault must be adequately sized to store inventory that is not being actively handled for purposes of dispensing, packaging, processing or transportation.

Vegetation means the sporophytic state of the Cannabis or Marijuana plant, which is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Vegetative Plant means a plant in a stage of Vegetation.

Vendor Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator or a Marijuana Product Manufacturer licensed under the provisions of 935 CMR 500.000 that is provided to a Marijuana Product Manufacturer, a Marijuana Retailer or a Delivery Operator to promote product awareness.

Verification of eligibility as a Social Equity Business means the process through which the Commission confirms whether an applicant is a Social Equity Business.

Verified Financial Hardship means that an individual is a recipient of MassHealth, or Supplemental Security Income, or the individual's income does not exceed 300% of the federal poverty level, adjusted for family size.

Veteran means a person who served in the active military, naval air, or space service of the United States and who was discharged or released under conditions other than dishonorable.

Visitor means an individual, other than a Marijuana Establishment Agent or Laboratory Agent, authorized by the Marijuana Establishment or Independent Testing Laboratory to be on the Premises of an Establishment for a purpose related to its operations and consistent with the objectives of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000; provided, however, that no such individual shall be younger than 21 years old.

Visitor Identification Badge means a badge issued by an MTC, Marijuana Establishment or the Commission to be used at all times while on the Premises of a Marijuana Establishment or an MTC or Independent Testing Laboratory. These identification badges shall be issued in a form and manner determined by the Commission.

Waiver of Consent means the document signed by potential participants or the legal guardians of potential participants that waives one or more elements of consent.

Warehouse means an indoor structure or a portion of the structure on the Licensee's Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000, including the requirements for security, storage and disposal. For Delivery Operators, the location of the Warehouse shall be the Licensee's principle place of business in the host community.

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Warehousing means the on-site storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.

White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers. Vaporizer Devices shall not be white labeled. White labeled products shall be required to comply with 935 CMR 500.105(5), and (6), 935 CMR 500.130(6) and 935 CMR 500.146(7).

Wholesale means the Transfer of Marijuana or Marijuana Product between Marijuana Establishments.

Wholesale Agreement means a contract between Marijuana Establishments defining the terms of Transfer of Marijuana or Marijuana Products between the Marijuana Establishments.

Written Certification means a form submitted to the Commission by a Massachusetts licensed Certifying Healthcare Provider 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.

14-day Supply means 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 14 calendar days for the Patient's personal medical use, which is 2.5 ounces, subject to 935 CMR 501.010(10), unless otherwise determined by a Certifying Healthcare Provider.

60-day Supply means 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 935 CMR 501.010(10), unless otherwise determined by a Certifying Healthcare Provider.

500.032: Revocation of a Marijuana Establishment Agent Registration Card

- (1) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of an agent Registration Card issued to a Marijuana Establishment Agent, including Laboratory Agents:
  - (a) Submission of information in the application or renewal application that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;
  - (b) Violation of the requirements of the state Marijuana laws, including 935 CMR 500.000.
  - (c) Fraudulent use of a Marijuana Establishment Agent Registration Card including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an agent Registration Card;
  - (d) Selling, Transferring, distributing, or giving Marijuana to any unauthorized person;
  - (e) Failure to notify the Commission within five business days after becoming aware that the agent Registration Card has been lost, stolen, or destroyed;
  - (f) Failure to notify the Commission within five business days after a change in the registration information contained in the application or required by the Commission to have been submitted in connection with the application an agent Registration Card, including open investigations or pending actions as delineated in 935 CMR 500.802 as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent;
  - (g) Conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of an Other Jurisdiction; or
  - (h) Conviction, guilty plea, plea of *nolo contendere* or admission to sufficient facts in the Commonwealth, or a like violation of the laws of another state, to an offense as delineated in 935 CMR 500.801, Table A: *Marijuana Establishment Licensees* or 935 CMR 500.803, Table E: *Registration as a Laboratory Agent*, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent.
- (2) In addition to the grounds in 935 CMR 501.032(1), a conviction of a felony drug offense in the Commonwealth, or a like violation of the laws of an Other Jurisdiction shall be adequate grounds for the revocation of a Marijuana Establishment Agent Registration Card for individuals or entities subject to 935 CMR 500.801, Table A: *Marijuana Establishment Licensees* or 935 CMR 500.803, Table E: *Registration as a Laboratory Agent*
- (3) Other grounds as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a Marijuana Establishment Agent, that make the Registrant unsuitable for registration. The Commission will provide notice to the Registrant of the grounds prior to the revocation of an agent Registration Card and a reasonable opportunity to correct these grounds.
  - (a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in accordance with 935 CMR 500.800. Suitability determinations shall be based on credible and reliable information.
  - (b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800.

500.050: Marijuana Establishments

- (1) General Requirements.
  - (a) A Marijuana Establishment is required to be registered to do business in the Commonwealth as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500.000 and to maintain the corporation or entity in good standing with the Secretary of the Commonwealth, DOR, and DUA.
  - (b) Control Limitations.
    1. No Person or Entity Having Direct or Indirect Control shall be granted, or hold, more than three licenses in a particular class, except as otherwise specified in 935 CMR

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500.000.

2. An Independent Testing Laboratory or Standards Laboratory Licensee, or any associated Person or Entity Having Direct or Indirect Control, may not have a License in any other class.
  3. To the extent that persons or entities seek to operate a testing facility in the Counties of Dukes County and Nantucket, 935 CMR 500.200 applies.
  4. The Commission shall receive notice of any such interests as part of the application pursuant to 935 CMR 500.101.
  5. Any Person or Entity Having Direct or Indirect Control, or Licensee, shall be limited to a total of 100,000 square feet of Canopy distributed across no more than three cultivation Licenses under 935 CMR 500.000 and three MTC Licenses. A Craft Marijuana Cooperative Licensee shall be limited to one license and a total of 100,000 square feet of Canopy.
  6. Limitations on the Number and Control of Delivery Licenses.
    - a. No Third-party Technology Platform Provider shall be a Licensee, or a Person or Entity with Direct or Indirect Control of a Delivery Licensee.
    - b. A contract between a Delivery Licensee and a Third-party Technology Platform Provider shall be negotiated and entered into on an arm's length basis. A Delivery Licensee may not accept any investment in the Delivery Licensee by a Third-party Technology Platform Provider with which they have a contract.
    - c. No Person or Entity Having Direct or Indirect Control shall be granted or hold more than a combined total of two Delivery Operator and/or Marijuana Courier Licenses at any time.
    - d. No Delivery Licensee may share its profits of the sale of Marijuana or Marijuana Products with a Third-party Technology Platform Provider, or otherwise provide a percentage or portion of the sale of Marijuana or Marijuana Products to the Third-party Technology Platform Provider.
- (c) License Classes are as follows:
1. Marijuana Cultivator (Indoor or Outdoor):
    - a. Tier 1: up to 5,000 square feet of Canopy;
    - b. Tier 2: 5,001 to 10,000 square feet of Canopy;
    - c. Tier 3: 10,001 to 20,000 square feet of Canopy;
    - d. Tier 4: 20,001 to 30,000 square feet of Canopy;
    - e. Tier 5: 30,001 to 40,000 square feet of Canopy;
    - f. Tier 6: 40,001 to 50,000 square feet of Canopy;
    - g. Tier 7: 50,001 to 60,000 square feet of Canopy;
    - h. Tier 8: 60,001 to 70,000 square feet of Canopy;
    - i. Tier 9: 70,001 to 80,000 square feet of Canopy;
    - j. Tier 10: 80,001 to 90,000 square feet of Canopy; or
    - k. Tier 11: 90,001 to 100,000 square feet of Canopy.
  2. Craft Marijuana Cooperative;
  3. Marijuana Product Manufacturer;
  4. Marijuana Microbusiness;
  5. Independent Testing Laboratory and Standards Laboratory;
  6. Marijuana Retailer;
  7. Social Consumption Establishment;
  8. Marijuana Transporter:
    - a. Existing Licensee Transporter;
    - b. Third-party Transporter;
  9. Delivery Licensee;
    - a. Marijuana Courier;
    - b. Marijuana Delivery Operator; and
  10. Marijuana Research Facility Licensee.
    - a. A Marijuana Establishment shall operate all activities authorized by the License only at the address(es) reported to the Commission for that license.
    - b. All Marijuana Establishment Agents of the Marijuana Establishment shall be registered with the Commission pursuant to 935 CMR 500.030.

(2) Marijuana Cultivator (Indoor or Outdoor).

- (a) A Marijuana Cultivator may cultivate, Process and package Marijuana, to transport Marijuana to Marijuana Establishments and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers.
- (b) Marijuana Cultivators shall select a cultivation tier. Cultivation tiers are based on the square footage of Canopy:

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1. Tier 1: up to 5,000;
2. Tier 2: 5,001 to 10,000;
3. Tier 3: 10,001 to 20,000;
4. Tier 4: 20,001 to 30,000;
5. Tier 5: 30,001 to 40,000;
6. Tier 6: 40,001 to 50,000;
7. Tier 7: 50,001 to 60,000;
8. Tier 8: 60,001 to 70,000;
9. Tier 9: 70,001 to 80,000;
10. Tier 10: 80,001 to 90,000; or
11. Tier 11: 90,001 to 100,000.

(c) Tier Expansion. A Marijuana Cultivator may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A Marijuana Cultivator may change tiers to either expand or reduce production. If a Marijuana Cultivator is applying to expand production, it shall demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator.

(d) Tier Relegation. In connection with the license renewal process for Marijuana Cultivators, the Commission will review the records of the Marijuana Cultivator during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.

(e) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including, but not limited to:

1. Cultivation and production history, including whether the plants/inventory suffered a catastrophic event during the licensing period;
2. Transfer, sales, and excise tax payment history;
3. Existing inventory and inventory history;
4. Sales contracts; and
5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(3) Craft Marijuana Cooperative.

(a) A Craft Marijuana Cooperative may be organized as a limited liability company, limited liability partnership, or a cooperative corporation under the laws of the Commonwealth.

(b) The Members or shareholders of the cooperative shall be residents of the Commonwealth for the 12 months immediately preceding the filing of an application for a license.

(c) The Craft Marijuana Cooperative shall have:

1. One Member that has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the five years prior to application for licensure; or
2. An agreement to lease land wholly owned by a person or entity that has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the five years prior to application for licensure.

(d) Where the agreement to lease land in 935 CMR 500.050(3)(c)2. renders the individual or entity filing a Schedule F (Form 1040) a Person or Entity Having Direct or Indirect Control, the Craft Marijuana Cooperative shall report the individual or entity and submit the agreement, as required by 935 CMR 500.101(1)(a)1.

(e) The Craft Marijuana Cooperative shall operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.

(f) The cooperative license authorizes it to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana Products and to deliver Marijuana to Marijuana Establishments, but not to Consumers.

(g) The Craft Marijuana Cooperative is limited to one license, under which it may cultivate Marijuana, subject to the limitations of 935 CMR 500.050. The cooperative's total locations are limited to cultivating 100,000 square feet of Canopy. A cooperative is not limited in the number of cultivation locations it may operate, provided that for each location over six locations, additional application and licensing fees shall apply pursuant to 935 CMR 500.005(1)(d). The cooperative may also conduct activities authorized for Marijuana

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Product Manufacturers at up to three locations.

(h) For the Seed-to-sale SOR, a cooperative that designates a system administrator will pay one licensing program fee on a monthly basis for Seed-to-sale tracking software.

(i) Members of a cooperative may not be a Person or Entity Having Direct or Indirect Control in any other Marijuana Establishment. Such restriction may not be construed to prohibit a Craft Marijuana Cooperative for applying for a Marijuana Retailer, Marijuana Existing Licensee Transporter, Marijuana Research or Social Consumption Establishment License.

(j) Tier Expansion. A Craft Marijuana Cooperative may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A cooperative may change tiers to either expand or reduce production. If a cooperative is applying to expand production, it shall demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator.

(k) Tier Relegation. In connection with the license renewal process for Craft Marijuana Cooperatives, the Commission will review the records of the cooperative during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.

(l) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including, but not limited to:

1. Cultivation and production history, including whether the plants/inventory suffered a catastrophic event during the licensing period;
2. Transfer, sales, and excise tax payment history;
3. Existing inventory and inventory history;
4. Sales contracts; and
5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(4) Marijuana Product Manufacturer. A Marijuana Product Manufacturer may obtain, Manufacture, Process and package Marijuana Products, to transport Marijuana Products to Marijuana Establishments and to Transfer Marijuana Products to other Marijuana Establishments, but not to Consumers.

(5) Marijuana Microbusiness.

(a) A Microbusiness is an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana or its dry-weight equivalent in raw concentrate per year from other Marijuana Establishments, but not any other Marijuana Products.

(b) A Microbusiness shall comply with all operational requirements imposed by 935 CMR 500.105 through 500.140 on Marijuana Cultivators and Marijuana Product Manufacturers, and Retailers, to the extent the Licensee engages in such activities.

(c) A Microbusiness Licensee may not be a Person or Entity Having Direct or Indirect Control for any other Marijuana Establishment, except a Social Consumption Establishment. A majority of the Microbusiness' Executives or Members shall have been residents of Massachusetts for no less than 12 months prior to application.

(d) Application fees and license fees for Microbusinesses shall be set at 50% of the combined sum of the application fees and license fees for all the cultivation or manufacturing activities in which the Licensee engages.

(e) Delivery Endorsements shall be subject to the exclusivity provisions for Delivery Licensees established in 935 CMR 500.050(10)(b).

(6) Social Consumption Establishment.

(a) Social Consumption Establishments may allow customers to consume Marijuana or Marijuana Products solely on its Premises.

(b) Social Consumption Establishment licenses shall be limited on an exclusive basis to

businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants; Microbusinesses; and Craft Marijuana Cooperatives, for a period of 36 months from the date the first Social Consumption Establishment receives a notice to commence operations, provided, however, that the Commission may, by vote, decide to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes, has not been met.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met which shall include, but not be limited to:
    - a. Overall rates of participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes;
    - b. Overall rates of participation in the regulated Marijuana industry by people of color;
    - c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants; Microbusinesses; and Craft Marijuana Cooperatives;
    - d. Number of registered agents who are Social Equity Program Participants;
    - e. Number of Social Consumption Establishments in operation and business performance relative to other Marijuana Establishments;
    - f. Financial feasibility of continued participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes if exclusivity period ends; and
    - g. Any other information the Commission determines relevant.
  2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-month period is necessary prior to the conclusion of that time period.
  3. The licenses may be made available to any qualifying applicants after the 36-month period, unless the Commission affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1, have not been met.
- (c) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Social Consumption Establishment license.

(7) Independent Testing Laboratory.

- (a) Prior to final licensure an Independent Testing Laboratory shall be:
  1. Accredited to the most current International Organization for Standardization (ISO) 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement; or
  2. Certified, registered, or accredited by an organization approved by the Commission.
- (b) An Executive or Member of a Marijuana Establishment is prohibited from being a Person or Entity Having Direct or Indirect Control in an Independent Testing Laboratory providing testing services for any Marijuana Establishment, except as otherwise provided in 935 CMR 500.200.
- (c) No individual employee of a laboratory providing testing services for Marijuana Establishments may receive direct or indirect financial compensation from any Marijuana Establishment, except as otherwise provided in 935 CMR 500.200.
- (d) Standards Laboratory. A laboratory meeting the requirements of the Independent Testing Laboratory may be licensed as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories. An Independent Testing Laboratory may not serve as a Standards Laboratory.
  1. On request by the Commission, a Standards Laboratory shall test samples of Marijuana Products in a time and manner to be determined by the Commission.
  2. Testing shall be performed in a manner determined by the Commission so as not to reveal to the laboratory the source of the Marijuana Products.
  3. The Standards Laboratory shall submit the results of testing to the Commission for review.
  4. The Standards Laboratory shall retain the Marijuana Products tested pursuant to



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935 CMR 500.050(7)(d)1., until directed to Transfer or dispose of them by the Commission. Any disposal shall take place in compliance with 935 CMR 500.105(12).

### (8) Marijuana Retailer.

#### (a) General Requirements.

1. A Marijuana Retailer may purchase, transport, sell, Repackage, or otherwise Transfer Marijuana or Marijuana Products to Marijuana Establishments and sell to Consumers. A Marijuana Retailer can deliver Marijuana or Marijuana Products to Consumers in accordance with 935 CMR 500.000. A Marijuana Retailer may not allow on-site social consumption by Consumers on the Premises of the Marijuana Establishment.

2. A retailer shall operate all Marijuana-related activities solely at the address identified in the license.

3. No Person or Entity Having Direct or Indirect Control in a Marijuana Retailer license shall be granted or hold more than a combined total of three Marijuana Retailer Licenses and shall be subject to the limitations in 935 CMR 500.050(1)(b)6.

(b) A Marijuana Retailer shall provide a retail location accessible to Consumers 21 years of age or older, or, if colocated with an MTC, Registered Qualifying Patients with the Medical Use of Marijuana Program in possession of a Medical Registration Card.

### (9) Marijuana Transporter.

(a) An entity may only transport Marijuana Products when such transportation is not already authorized under a Marijuana Establishment license if it is licensed as a Marijuana Transporter:

1. Third-party Transporter. An entity formerly registered or currently licensed to do business in Massachusetts that does not hold another Marijuana Establishment license pursuant to 935 CMR 500.050 and is not formerly registered or currently licensed as an MTC pursuant to 935 CMR 501.000: *Medical Use of Marijuana*. A Third-party Transporter is permitted to transport Marijuana and Marijuana Products between Marijuana Establishments and between MTCs.

2. Existing Licensee Transporter. A Marijuana Establishment that wishes to contract with other Marijuana Establishments to transport their Marijuana Products to other Marijuana Establishments.

(b) All Marijuana Transporter, their agents and employees, who contract with a Marijuana Establishment to transport Marijuana Products shall comply with M.G.L. c. 94G, and 935 CMR 500.000.

(c) Marijuana Transporters will be allowed to Warehouse Marijuana Products in a form and manner determined by the Commission.

### (10) Marijuana Courier.

(a) A Marijuana Courier may deliver Marijuana or Marijuana Products directly to Consumers from a Marijuana Retailer or to Patients or Caregivers from an MTC with which the Marijuana Courier has a Delivery Agreement. A Marijuana Courier may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Retail or Transportation license

(b) A Marijuana Courier shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 36 months from the date the first Delivery Operator Licensee receives a notice to commence operations; provided, however, that the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include, but not be limited to:

a. Overall rates of participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement of the law;

b. Overall rates of participation in the regulated Marijuana industry by people of color;

c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;

d. Number of registered agents who are Social Equity Program Participants;

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- e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;
  - f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and
  - g. Any other information the Commission determines relevant.
2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-month period is necessary prior to the conclusion of that time period.
  3. The licenses shall generally be available to applicants after the 36-month period unless the Commissioners affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. have not been met.
  4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. and that demand for Consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:
    - a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or
    - b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.
    - c. No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery License.
    - d. No Person or Entity with Direct or Indirect Control shall possess, or be granted, more than two Delivery Licenses.
    - e. After January 8, 2021, any application or license classified as a Delivery-only license pursuant to previously adopted regulations shall be converted to a Delivery Courier application or license governed by 935 CMR 500.050(10).

### (11) Marijuana Delivery Operator.

- (a) A Delivery Operator may Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative and sell and deliver directly to Consumers. A Delivery Operator may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Transportation or Retail license, subject to the limitations stated in 935 CMR 500.050(11)(e).
- (b) A Delivery Operator Licensee shall operate a Warehouse for the purpose of storing Finished Marijuana Products.
- (c) Notwithstanding that a Delivery Operator is not considered to be a Marijuana Retailer as defined under 935 CMR 500.002 or authorized to engage in permitted activities under 935 CMR 500.050(8), but is authorized to sell Finished Marijuana Products directly to consumers, a Delivery Operator shall register as a vendor with the Department of Revenue and collect and remit marijuana retail taxes in accordance with 830 CMR 64N.1.1: *Marijuana Retail Taxes*.
- (d) Delivery Operator Licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 36 months from the date the first Delivery Operator Licensee receives a notice to commence operations; provided, however, that the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(11)(d)4.
  1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include, but not be limited to:
    - a. Overall rates of participation in the regulated marijuana industry by people from

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communities that have previously been disproportionately harmed by marijuana prohibition and enforcement of the law;

b. Overall rates of participation in the regulated Marijuana industry by people of color;

c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;

d. Number of registered agents who are Social Equity Program Participants;

e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;

f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and

g. Any other information the Commission determines relevant.

2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-month period is necessary prior to the conclusion of that time period.

3. The licenses shall generally be available to applicants after the 36-month period unless the Commissioners affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(d)1. have not been met.

4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(d)1. and that demand for consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:

a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or

b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.

(e) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery Operator License.

(f) No Person or Entity Having Direct or Indirect Control in a Delivery Operator License shall obtain, or be granted, more than a combined total of two Delivery Licenses, subject to the limitations in 935 CMR 500.050(1)(b).

(g) Two years from the date the first Delivery Operator Licensee receives a notice to commence operations, the Commission or its designee shall commence an evaluation of the development of the Cannabis delivery market in the Commonwealth of Massachusetts, which may include assessing the competitiveness and concentration of the market, the repackaging and white labeling requirements, and any other matter as determined by the Commission. The Commission shall complete its evaluation within four months, unless the Commission determines that there is a reasonable basis for an extension. The Commission may take any action including, but not limited to, issuing regulations or guidance, it deems necessary to address issues with market development.

(12) Marijuana Research Facility Licensee.

(a) A Marijuana Research Facility Licensee may conduct research after receiving approval from the Commission. A license to operate a Marijuana Research Facility shall be separate from receipt of a Research Permit to conduct a specific research project at the Marijuana Research Facility.

(b) A Marijuana Research Facility Licensee may be an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC.

(c) Unless otherwise authorized by law, any Marijuana Research Facility Licensee that is not licensed pursuant to 935 CMR 500.050 or 935 CMR 501.050: *Medical Marijuana Treatment Centers (MTCs)* to engage in the cultivation, production or retail sale of Marijuana or Marijuana Products shall acquire all Marijuana or Marijuana Products used in research from a Marijuana Establishment or MTC licensed to engage in such activity except:

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1. A Marijuana Research Facility Licensee may engage in cultivation or product manufacturing of Marijuana or Marijuana Products if the cultivation or product manufacturing process is the subject of its research; or
  2. As otherwise determined by the Commission.
- (d) A Marijuana Research Facility may be colocated with another Marijuana Establishment or MTC license provided that the Marijuana Research Facility and the colocated licensed Marijuana Establishment or MTC are:
1. Commonly owned; and
  2. Clearly physically separated.
- (e) A Marijuana Research Facility Licensee may not Transfer Marijuana or Marijuana Products to another Marijuana Establishment, other than for testing, or sell to a Consumer, Registered Qualifying Patient or Caregiver Marijuana or Marijuana Products that has been acquired for a research project under its Marijuana Research Facility License.

500.101: Application Requirements

(1) New Applicants. An applicant in any category of Marijuana Establishment shall file, in a form and manner specified by the Commission, an application for licensure as a Marijuana Establishment. The application shall consist of three sections: Application of Intent; Background Check; and Management and Operations Profile, except as otherwise provided. The applicant may complete any section of the application in any order. Once all sections of the application have been completed, the application may be submitted. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26.

(a) Application of Intent. An applicant for licensure as a Marijuana Establishment shall submit the following as part of the Application of Intent:

1. Documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity pursuant to 935 CMR 500.050(1)(b);
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or Licensee in Massachusetts;
3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. Documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they shall also be listed pursuant to 935 CMR 500.101(1)(a)1. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:
  - a. The proper name of any individual or registered business name of any entity;
  - b. The street address, provided, however that the address may not be a post office box;
  - c. The primary telephone number;
  - d. Electronic mail;
  - e. The amount and source of capital provided or promised;
  - f. A bank record dated within 60 days of the application submission date verifying the existence of capital;
  - g. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained; and
  - h. Any contractual or written agreement pertaining to a loan of initial capital, if applicable.
5. Documentation of a bond or an escrow account in an amount set by 935 CMR 500.105(16);
6. Identification of the proposed address for the license;
7. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment shall be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:
  - a. Clear legal title to the proposed site;

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- b. An option to purchase the proposed site;
  - c. A legally enforceable agreement to give such title; or
  - d. Documentation evidencing permission to use the Premises.
8. Documentation in the form of the most current, executed HCA or HCA Waiver entered into between a License Applicant and a Host Community that complies with 935 CMR 500.180;
9. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's Guidance for License Applicants on Community Outreach within the six months prior to the application. Documentation shall include:
- a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 14 calendar days prior to the meeting;
  - b. Copy of the meeting notice filed with the city or town clerk, the planning board, the contracting authority for the municipality and local cannabis licensing authority, if applicable;
  - c. Attestation that at least one meeting was held within the municipality where the establishment is proposed to be located;
  - d. Attestation that at least one meeting was held after normal business hours;
  - e. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such Owner is located in another city or town;
  - f. Information presented at the community outreach meeting, which shall include, but not be limited to:
    - i. The type(s) of Marijuana Establishment to be located at the proposed address;
    - ii. Information adequate to demonstrate that the location will be maintained securely;
    - iii. Steps to be taken by the Marijuana Establishment to prevent diversion to minors;
    - iv. A plan by the Marijuana Establishment to positively impact the community;
    - v. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and
    - vi. An attestation that community members were permitted to ask questions and receive answers from representatives of the Marijuana Establishment.
10. A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment which shall include, but not be limited to, the identification of all local licensing requirements for the adult use of Marijuana;
11. A plan by the Marijuana Establishment to positively impact Areas of Disproportionate Impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a½)(iv). The Marijuana Establishment may satisfy this requirement, in part, by donating to the Cannabis Social Equity Trust Fund established pursuant to M.G.L. c. 94G, § 14A, provided that the ME meets the criteria set forth in 935 CMR 500.181(5). The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed;
12. The requisite nonrefundable application fee pursuant to 935 CMR 500.005; and
13. Any other information required by the Commission.
- (b) Background Check. Prior to an application being considered complete, each applicant for licensure shall submit the following information:
1. The list of individuals and entities in 935 CMR 500.101(1)(a)1;
  2. Information for each individual identified in 935 CMR 500.101(1)(a)1. which shall include:
    - a. The individual's full legal name and any aliases;
    - b. The individual's address;
    - c. The individual's date of birth;
    - d. A photocopy of the individual's driver's license or other government-issued identification card;
    - e. A CORI Acknowledgment Form, pursuant to 803 CMR 2.09: *Requirements for Requestors to Request CORI*, provided by the Commission, signed by the individual and notarized;

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- f. Authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, and Public Law 92-544, submitted in a form and manner as determined by the Commission; and
  - g. Any other authorization or disclosure deemed necessary by the Commission, for the purposes of conducting a background check.
3. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control, and those individuals and entities contributing 10% or more in the form of a loan, shall provide information detailing involvement in any of the following criminal, civil, or administrative matters:
- a. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical- or adult-use purposes, in which those individuals either owned shares of stock or served as board member, Executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;
  - b. A description and the relevant dates of any civil action under the laws of the Commonwealth, or an Other Jurisdiction including, but not limited to, a complaint relating to any professional or occupational or fraudulent practices;
  - c. A description and relevant dates of any past or pending legal or disciplinary actions in the Commonwealth or any other state against an entity whom the applicant served as a Person or Entity Having Direct or Indirect Control, related to the cultivation, Processing, distribution, or sale of Marijuana for medical- or adult-use purposes;
  - d. A description and the relevant dates of any administrative action with regard to any professional license, registration, or certification, including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction including, but not limited to, any complaint or issuance of an order relating to the denial, suspension, or revocation of a license, registration, or certification;
  - e. A description and relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or a like action by an Other Jurisdiction with regard to any professional license, registration, or certification, held by any Person or Entity Having Direct or Indirect Control, if any;
  - f. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and
  - g. Any other information required by the Commission.
- (c) Management and Operations Profile. Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:
- 1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well as the identification of any doing-business-as names;
  - 2. A certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;
  - 3. A certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;
  - 4. A certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;
  - 5. A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;
  - 6. A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10).
  - 7. A detailed summary of the business plan for the Marijuana Establishment;
  - 8. A detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to, provisions for:
    - a. Security;
    - b. Prevention of diversion;
    - c. Storage of Marijuana;
    - d. Transportation of Marijuana;
    - e. Inventory procedures;
    - f. Procedures for quality control and testing of product for potential contaminants;

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- g. Personnel policies;
- h. Dispensing procedures;
- i. Recordkeeping procedures;
- j. Maintenance of financial records; and
- k. Diversity plans to promote equity among people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.

9. A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees;

10. The Management and Operation Profile submitted in accordance with 935 CMR 500.101(1)(c) shall demonstrate compliance with the operational requirements set forth in 935 CMR 500.105 through 500.145 as applicable;

11. Disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the Marijuana Establishment; and

12. Any other information required by the Commission.

(2) License Pre-certification Application Process for Economic Empowerment Priority Applicants and Social Equity Program Participants.

(a) License Applicants controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants may file a Pre-certification Application. The Pre-certification Application for licensure shall be in a form and manner specified by the Commission. After receiving pre-certification by the Commission pursuant to this subsection, an applicant may submit a Provisional License Application. After an applicant receives a Provisional License, the applicant shall comply with the requirements of 935 CMR 500.103.

(b) Pre-certification Application. The Pre-certification Application shall consist of three sections: (i) Application of Intent ;(ii) Background Check; and (iii) Management and Operations Profile.

1. A License Applicant may complete any section of the application in any order. Once all sections of the application have been completed, the application may be submitted.

2. The Commission may determine a License Applicant to be pre-certified upon finding a License Applicant has submitted responsive documentation demonstrating a propensity to successfully operate under a Marijuana Establishment License.

3. On approval of the Pre-certification Application, a License Applicant shall be given a dated notice of such approval along with a copy of the Pre-certification Application to the extent permitted by law.

4. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7, cl. 26.

(c) Application of Intent. An applicant for pre-certification under this section shall submit the following as part of the Application of Intent:

1. Documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control;

2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment for licensure in Massachusetts;

3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;

4. The requisite nonrefundable application fee pursuant to 935 CMR 500.005; and

5. Any other information required by the Commission.

(d) Background Check. Each License Applicant for pre-certification shall submit the following information:

1. The list of individuals and entities in 935 CMR 500.101(1)(a)1;

2. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control listed in the Pre-certification Application shall provide information detailing involvement in any of the following criminal, civil, or administrative matters:

a. A description and the relevant dates of any criminal action under the laws of the

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- Commonwealth, or Other Jurisdictions, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical- or adult-use purposes, in which those individuals either owned shares of stock or served as board member, Executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;
- b. A description and the relevant dates of any civil action under the laws of the Commonwealth, or Other Jurisdictions including, but not limited to, a complaint relating to any professional or occupational or fraudulent practices;
  - c. A description and relevant dates of any past or pending legal or disciplinary actions in the Commonwealth or any Other Jurisdiction against an entity whom the applicant served as a Person or Entity Having Direct or Indirect Control, related to the cultivation, Processing, distribution, or sale of Marijuana for medical- or adult-use purposes;
  - d. A description and the relevant dates of any administrative action including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction including, but not limited to:
    - i. The denial, suspension, or revocation, or other action with regard to of a professional or occupational license, registration, or certification or the surrender of a license;
    - ii. Administrative actions with regard to unfair labor practices, employment discrimination, or other prohibited labor practices; and
    - iii. Administrative actions with regard to financial fraud, securities regulation, or consumer protection.
  - e. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and
  - f. Any other information required by the Commission.
3. Individuals and entities seeking pre-certification may submit to a Commission initiated background check upon request in a form and manner determined by the Commission.
- (e) Management and Operations Profile. Each applicant for pre-certification shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:
1. A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10);
  2. A detailed summary of the business plan for the Marijuana Establishment;
  3. A detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to, provisions for:
    - a. Security, including specific plans for securing entrances and that all Finished Marijuana and Finished Marijuana Products are kept out of plain sight and not visible from a public place;
    - b. Prevention of diversion;
    - c. Where applicable to Delivery Licensees, procedures to ensure the safe delivery of Finished Marijuana Products to Consumers and as permitted, to Patients and Caregivers;
    - d. Storage of Marijuana including, but not limited to, disposal procedures for unsold and unconsumed Marijuana Products;
    - e. Transportation of Marijuana;
    - f. Inventory procedures, including procedures for reconciling undelivered Individual Orders at the close of the business day;
    - g. Procedures for quality control and testing of product for potential contaminants;
    - h. Personnel policies;
    - i. Dispensing procedures, including the process for how Individual Orders will be filled;
    - j. Procedures to ensure that Consumers are not overserved or that individual order delivery limits are adhered to;
    - k. procedures to educate Consumers about risk of impairment and penalties for operating under the influence;
    - l. Recordkeeping procedures;
    - m. Maintenance of financial records;
    - n. Sanitary practices in compliance with 105 CMR 590.000: *State Sanitary Code Chapter X - Minimum Sanitation Standards for Food Establishments*; and



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- o. A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees;
  4. The Management and Operation Profile submitted in accordance with 935 CMR 500.101(1)(c) shall demonstrate compliance with the operational requirements set forth by incorporation in 935 CMR 500.105 through 500.145 as applicable;
  5. Disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the Marijuana Establishment; and
  6. Any other information required by the Commission.
- (f) Provisional License Application. The provisional license application shall consist of the three sections of the application, the Application of Intent, Background Check, and Management and Operations Profile.
1. An applicant may submit a provisional license application within 24 months of the date of the applicant's pre-certification approval pursuant to 935 CMR 500.101(2)(b)3.
  2. If there has been a material change of circumstances after the submission of these sections as part of the Pre-certification Application, the applicant shall revise this information and attest in a form and manner determined by the Commission.
  3. 3. Once all information has been entered into each section of the application, the application may be submitted. Following Commission review, the License Applicant will be notified if the application has been deemed complete or if additional information may be necessary.
  4. Once the Provisional License application has been submitted, it will be reviewed in the order it was received pursuant to 935 CMR 500.102(2).
  5. The Pre-certification and Provisional License application combined will be reviewed in accordance with 935 CMR 500.102(1).
  6. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7, cl. 26.
- (g) Application of Intent. An applicant for licensure under this section shall submit the following as part of the Application of Intent:
1. A list of all Persons or Entities Having Direct or Indirect Control currently associated with the proposed establishment. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity pursuant to 935 CMR 500.050(1)(b);
  2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment or MTC application in Massachusetts;
  3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
  4. Documentation of a bond or an escrow account in an amount set by 935 CMR 500.105(16): *Bond*;
  5. Identification of the proposed address for the license;
  6. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment shall be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:
    - a. Clear legal title to the proposed site;
    - b. An option to purchase the proposed site
    - c. A legally enforceable agreement to give such title; or
    - d. Documentation from the Owner evidencing permission to use the Premises.
  7. Disclosure and documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they shall also be listed pursuant to 935 CMR 500.101(1)(a)1. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:
    - a. The proper name of any individual or registered business name of any entity;
    - b. The street address; provided, however that the address may not be a post office box;
    - c. The primary telephone number;
    - d. Electronic mail;
    - e. The amount and source of capital provided or promised;
    - f. A bank record dated within 60 days of the application submission date verifying

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- the existence of capital;
  - g. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained; and
  - h. Any contractual or written agreement pertaining to a loan of initial capital, if applicable.
8. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's Guidance for License Applicants on Community Outreach within the six months prior to the application. Documentation shall include:
- a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 14 calendar days prior to the meeting;
  - b. Copy of the meeting notice filed with the city or town clerk;
9. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such Owner is located in another city or town;
- a. Information presented at the community outreach meeting, which shall include, but not be limited to:
    - i. The type(s) of marijuana establishment to be located at the proposed address;
    - ii. Information adequate to demonstrate that the location will be maintained securely;
    - iii. Steps to be taken by the marijuana establishment to prevent diversion to minors;
    - iv. A plan by the marijuana establishment to positively impact the community;
    - v. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and
    - vi. An attestation that community members were permitted to ask questions and receive answers from representatives of the marijuana establishment.
  - b. Documentation in the form of the most current, executed HCA or HCA Waiver entered into between a License Applicant and a Host Community that complies with 935 CMR 500.180. In addition to this requirement, the host community shall state that they have accepted the Social Consumption Establishment applicant's plans to:
    - i. Mitigate noise;
    - ii. Mitigate odor; and
    - iii. Comply with outdoor smoking laws, ordinances, or bylaws.
  - c. A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the marijuana establishment, which shall include, but not be limited to, the identification of any local licensing requirements for social consumption of the adult use of marijuana;
  - d. A plan by the marijuana establishment to positively impact areas of disproportionate impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a<sup>1/2</sup>)(iv). An ME may satisfy this requirement, in part, by donating to the Cannabis Social Equity Trust Fund established pursuant to M.G.L. c. 94G, § 14A, provided that the MTC meets the criteria set forth in 935 CMR 500.181(5). The plan shall outline the goals, programs, and measurements the marijuana establishment will pursue once licensed; and
  - e. Any other information required by the Commission.
- (h) Background Check. Each applicant for licensure shall submit complete background check application information in compliance with the provisions of 935 CMR 500.101(2)(d);
- 1. Each applicant for licensure shall submit the list of individuals and entities in 935 CMR 500.101(1)(b)2. and 500.101(2)(d)1.
  - 2. The applicant shall resubmit the information required under 935 CMR 500.101(1)(b) if there has been a material change of circumstances including, but not limited to, a change in the list of individuals and entities identified above.
- (i) Management and Operations Profile. Each applicant for licensure shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:
- 1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well

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- as the identification of any doing-business-as names;
  2. A certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;
  3. A certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;
  4. A certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;
  5. A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;
  6. A diversity plan to promote equity among people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.
- (j) The Executive Director of the Commission may approve, provided the Executive Director gives the Commission timely notice of his decision:
1. Applications for Delivery Pre-Certification;
  2. Applications and authorization to commence operations for Delivery Endorsements pursuant to 935 CMR 500.050(5) for licensed Marijuana Microbusinesses that have complied with Commission requirements pertaining to delivery operations.
- (3) Additional Specific Requirements.
- (a) Additional Requirements for Cultivators. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate Marijuana Establishment for cultivation shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of Marijuana, including a detailed summary of the policies and procedures for cultivation, consistent with state and local law including, but not limited to, the Commission's Guidance on Integrated Pest Management.
- (b) Additional Requirements for Craft Marijuana Cooperatives. In addition to the requirements for the Application of Intent and the Management and Operations Profile set forth in 935 CMR 500.101(1)(a) and (c), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall provide:
1. As part of the Application of Intent:
    - a. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
    - b. Evidence of the cooperative's organization as a limited liability company or limited liability partnership, or a cooperative corporation under the laws of the Commonwealth;
    - c. Evidence that one Member has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the past five years; and
    - d. Evidence that the cooperative is organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.
  2. As part of the Management and Operations Profile:
    - a. The plan required of Cultivators pursuant to 935 CMR 500.101(3)(a); and
    - b. The plan(s) and documentation required of Marijuana Product Manufacturers pursuant to 935 CMR 500.101(3)(c), as applicable.
- (c) Additional Requirements for Marijuana Product Manufacturers. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for Product Manufacturing shall also provide, as part of the Management and Operation Profile packet:
1. A description of the types, forms and shapes, colors, and flavors of Marijuana Products that the Marijuana Establishment intends to produce;
  2. The methods of production;
  3. A safety plan for the Manufacture and production of Marijuana Products including, but not limited to, sanitary practices in compliance with 105 CMR 590.000: *State Sanitary Code Chapter X - Minimum Sanitation Standards for Food Establishments.*
  4. A sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device; and
  5. A detailed description of the Marijuana Establishment's proposed plan for obtaining

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Marijuana from a licensed Marijuana Establishment(s).

(d) Additional Requirements for Microbusinesses. In addition to the requirements for the Application of Intent and the Management and Operations Profile set forth in 935 CMR 500.101(1)(a) and (c), applicants for a license to operate a Marijuana Establishment as a Microbusiness shall also provide:

1. As part of the Application of Intent, evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
2. As part of the Management and Operations Profile, the same plans required of Marijuana Cultivators pursuant to 935 CMR 500.101(3)(a), Marijuana Product Manufacturers pursuant to 935 CMR 500.101(3)(c), and in the case of a Delivery Endorsement, Retailers pursuant to 935 CMR 500.101(3)(e) to the extent that these requirements implicate retail sales involving delivery.

(e) Additional Requirements for Retailers. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for retail shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining Marijuana Products from a licensed Marijuana Establishment(s).

(f) Additional Requirements for Independent Testing Laboratories. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate an Independent Testing Laboratory may provide, as part of the Management and Operations Profile packet, documentation demonstrating accreditation that complies with 935 CMR 500.050(7)(a). If unable to demonstrate accreditation prior to provisional licensure, the applicant shall demonstrate accreditation prior to final licensure.

(g) Additional Requirements for Marijuana Courier Applicants. In addition to the requirements set forth in 935 CMR 500.101(2) applicants to operate under a Marijuana Courier license shall also provide the following:

1. As part of the Pre-certification application, a delivery plan that demonstrates compliance with 935 CMR 500.145.
2. As part of the Provisional License application, information and documentation regarding any agreement, and the agreement if applicable, with a Marijuana Retailer or MTC and/or Third-party Technology Platform pursuant to 935 CMR 500.145(1)(g).

(h) Additional Requirements for Delivery Operator Applicants. In addition to the requirements set forth in 935 CMR 500.101(2), applicants to operate under a Delivery Operator License shall also provide the following:

1. As part of the Pre-certification application, a delivery plan that demonstrates compliance with 935 CMR 500.145 and 500.146.
2. As part of the Pre-certification application, a plan to obtain Marijuana and Marijuana Products.
3. As part of the Provisional License application, information and documentation regarding any agreements with Third-party Technology Platforms pursuant to 935 CMR 500.145(1)(g).
4. As part of the Provisional License application, a detailed plan for White Labeling, if applicable, which shall include:
  - a. An image of the logo and name to be used as part of the label;
  - b. An indication of whether the applicant intends the label to be Affixed by the Applicant or by Marijuana Establishments with which the Applicant intends to enter into Wholesale Agreements; and
  - c. Identification of the Marijuana Establishments from which the Applicant anticipates entering into Wholesale Agreements, if known. If unknown at the time of Provisional License application, the Applicant shall be required to identify the Marijuana Establishments prior to Final Licensure.
5. Applicants for Delivery Operator Licenses shall comply with the requirements of 935 CMR 500.103(1)(h).

(i) Additional Requirements for Social Consumption Establishment Applicants. In addition to the requirements set forth in 935 CMR 500.101(2) applicants for a license to operate a Social Consumption Establishment shall also provide the following summaries of policies and procedures as part of their Pre-certification application:

1. Prevention of a Consumer from bringing Marijuana or Marijuana Products, Marijuana Accessories onto the Premises that have not been obtained from the Social Consumption Establishment, including policies for ensuring Marijuana Accessories brought on-site, if permitted, do not contain Marijuana or Marijuana Products not obtained from the Social Consumption Establishment;
2. Procedural and operational plans to ensure the Marijuana Establishment makes

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a diligent effort to assist Consumers who may be impaired in finding means of transportation and that explain how the plans are adequately tailored to the region in which the establishment is located;

3. If vaporization or other nonsmoking forms of consumption involving heat are permitted indoors, procedures and building plans or schematic to ensure that:
  - a. The area(s) in which consumption involving heat takes place are isolated from the other areas, separated by walls and a secure door, with access only from the Social Consumption Establishment;
  - b. Employees have access to a smoke-free, vapor-free area where they may monitor the consumption area from a smoke-free, vapor-free area;
  - c. A ventilation system directs air from the consumption area to the outside of the building through a filtration system sufficient to remove vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;
4. Procedures to ensure no sales occur within the consumption area;
5. Employees shall monitor the consumption from a smoke-free, vapor-free area including, but not limited to, an employee monitoring the exit of the Marijuana Establishment;
6. Procedures to ensure that smoking as defined by M.G.L. c. 270, § 22 is prohibited indoors.

(4) MTC Priority Applicants. An MTC Priority Applicant shall be granted priority review of its application for a Marijuana Establishment license that is colocated with and for the same type of licensed activity (Marijuana Cultivator, Product Manufacturer or Retailer) as the MTC (formerly, RMD) license which was the basis for its priority review status certified by the Commission.

(a) The MTC license, for which priority review status was certified by the Commission, shall be active at the time the Marijuana Establishment application is submitted in order to receive priority review for that application.

(b) An MTC Priority Applicant shall be eligible for priority review of only its application for a Marijuana Establishment license that is:

1. Colocated with the MTC whose Certificate of Registration was the basis for its priority review status previously certified by the Commission in 2018; and
2. For the same type of licensed activity (Marijuana Cultivator, Product Manufacturer or Retailer) for which the MTC received a provisional Certificate of Registration or final Certificate of Registration that formed the basis of its priority review status certified by the Commission in 2018.

(5) Expedited Applicants. Following the review of applications submitted by priority applicants, applications submitted by Expedited Applicants shall be reviewed.

(a) The following applicants are eligible to be considered Expedited Applicants:

1. Social Equity Participants;
2. Marijuana Microbusiness applicants;
3. Marijuana Craft Marijuana Cooperative applicants;
4. Independent Testing Laboratory applicants;
5. Outdoor Marijuana Cultivator applicants; or
6. Minority, women, and veteran-owned businesses.

(b) Eligibility Criteria

1. Applicants for Marijuana Microbusinesses, Craft Marijuana Cooperatives, Independent Testing Laboratories, and Outdoor Marijuana Cultivators are only eligible for expedited review for those specific applications only and no other type of license application.

2. A Social Equity Participant shall possess 10% or more of equity in a proposed ME for the application to receive expedited review.

3. A minority, woman, and/or veteran-owned business shall:

- a. Disclose this designation in their license application and either be certified as that specific type of business with the SDO or submit documentation in a time and manner determined by the Commission to demonstrate that they have signed up for the SDO's required business class.
- b. Receive certification as minority, women, and/or veteran-owned business by the SDO prior to obtaining a final license.

(6) CMO License Requirements. Marijuana Establishment applicants seeking to operate as an MTC shall also comply with the application requirements in 935 CMR 501.000: *Medical*

*Use of Marijuana.*(7) Verification of Social Equity Businesses.

- (a) Social Equity Businesses. An applicant, once licensed, may file, in a form and manner specified by the Commission, an application for Verification as a Social Equity Business. The Commission shall act on an application for verification within 30 days of receipt. Once the Commission has confirmed that the application is complete and the applicant qualifies as a Social Equity Business, it will certify the applicant's status as a Social Equity Business. Social Equity Businesses certified by the Commission may request that the Commission provide confirmation of Social Equity Business status to a Host Community.
- (b) In the alternative, an applicant may file, in a form and manner specified by the Commission, an application for Verification of eligibility as a Social Equity Business once licensed as a Marijuana Establishment by the Commission. The Commission shall act on an application for verification as an eligible Social Equity Business within 30 days of receipt and said verification shall confirm that while not licensed, the applicant would otherwise qualify as a Social Equity Business upon licensure by the Commission.
- (c) If there has been a material change of circumstances after the submission of an application or received certification, the Social Equity Business applicant shall revise this information and attest in a form and manner determined by the Commission. The applicant shall also notify the Host Community of a material change in its application or status as a Social Equity Business, as applicable.
- (d) List to be provided to the Department of Revenue. The Commission shall provide the Massachusetts Department of Revenue with a list of Social Equity Businesses 30 days within Verification of a business as a Social Equity Business by the Commission.

500.102: Action on Applications

(1) Action on Each Application. The Commission shall grant licenses with the goal of ensuring that the needs of the Commonwealth are met regarding access, quality, and community safety.

- (a) License applications shall be evaluated based on the applicant's:
  1. Demonstrated compliance with the laws and regulations of the Commonwealth;
  2. Suitability for licensure based on the provisions of 935 CMR 500.101(1), 500.800 and 500.801; and
  3. Evaluation of the thoroughness of the applicant's responses to the required criteria. The Commission shall consider each license application submitted by an applicant on a rolling basis.
- (b) The Commission shall notify each applicant in writing that:
  1. The application has been deemed complete;
  2. The application has been deemed incomplete, and include the grounds for which it has been deemed incomplete; or
  3. The Commission requires further information within a specified period of time before the packet is determined to be complete.
- (c) Failure of the applicant to adequately address all required items in its application in the time required under 935 CMR 500.102 will result in evaluation of the application as submitted. Nothing in 935 CMR 500.101 is intended to confer a property or other right or interest entitling an applicant to a meeting before an application may be denied.
- (d) On determination that the application is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the municipality in which the Marijuana Establishment will be located.
  1. For all License Applicants not subject to 935 CMR 500.102(1)(d)(2), the Commission shall request that the municipality respond within 60 days of the date of the correspondence that the applicant's proposed Marijuana Establishment complies with municipal bylaws or ordinances.
  2. On determination that the application submitted by a Social Equity Business or a business controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the Host Community. The Host Community shall respond within 30 days of the date of the correspondence that the applicant's proposed Marijuana Establishment complies or does not comply with municipal bylaws or ordinances. If a Host Community does not respond to the Commission's correspondence

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within 30 days, the Commission will consider the requirement to be satisfied without any further action by the Host Community or applicant.

(e) The applicant shall keep current all information required by 935 CMR 500.000, or otherwise required by the Commission. The applicant shall report any changes in or additions to the content of the information contained in the application to the Commission within five business days after such change or addition. If a material change occurs to an application deemed complete, the Commission may deem the application incomplete pending further review. If an application is initially deemed complete, and later deemed incomplete, a notice will be provided to the applicant. An incomplete application must be fully evaluated pursuant to 935 CMR 500.102(1)(a) prior to being deemed complete again and submitted to the Commission pursuant to M.G.L. c. 94G, § 5(a).

### (2) Action on Completed Applications.

(a) Priority application review will be granted to existing MTC Priority Applicants and Economic Empowerment Priority Applicants.

(b) The Commission shall review applications from Priority Applicants on an alternating basis, beginning with the first-in-time-application received from either an MTC Priority Applicant or Economic Empowerment Priority Applicant as recorded by the Commission's electronic license application tracking system. Where no completed application is available for review by the Commission from either of the priority groups defined in 935 CMR 500.102(2)(a), the Commission shall review the next complete application from either group.

(c) The Commission shall grant or deny a provisional license not later than 90 days following notification to the applicant that all required packets are considered complete. Applicants shall be notified in writing that:

1. The applicant shall receive a provisional license which may be subject to further conditions as determined by the Commission; or
2. The applicant has been denied a license. Denial shall include a statement of the reasons for the denial.

(d) Failure of the applicant to complete the application process within the time specified by the Commission in the application instructions shall be grounds for denial of a license.

### 500.103: Licensure and Renewal

(1) Provisional License. On selection by the Commission, an applicant shall submit the required license fee and subsequently be issued a provisional license to develop a Marijuana Establishment, in the name of the entity. Such provisional license shall be subject to reasonable conditions specified by the Commission, if any.

(a) The Commission shall review architectural plans for the building or renovation of a Marijuana Establishment. Construction or renovation related to such plans may not begin until the Commission has granted approval. Submission of such plans shall occur in a manner and form established by the Commission including, but not limited to, a detailed floor plan of the Premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of Marijuana Products, and, if applicable, such information for the single allowable off-Premises location in Massachusetts where Marijuana will be cultivated or Marijuana Products will be prepared; and a description of plans to ensure that the Marijuana Establishment will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines.

(b) To demonstrate compliance with 935 CMR 500.120(11), a Marijuana Cultivator applicant shall also submit an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation. For a Microbusiness or Craft Marijuana Cooperative with a cultivation location sized as Tier 1 or Tier 2, compliance with any of the requirements of 935 CMR 500.120(11) may be demonstrated through an energy compliance letter prepared by one or more of the following energy professionals:

1. A Certified Energy Auditor certified by the Association of Energy Engineers;
2. A Certified Energy Manager certified by the Association of Energy Engineers;
3. A Massachusetts Licensed Professional Engineer; or
4. A Massachusetts Licensed Registered Architect.

(c) A Marijuana Establishment shall construct its facilities in accordance with 935 CMR 500.000, conditions set forth by the Commission in its provisional license and architectural review, and any applicable state and local laws, regulations, permits or licenses.

(d) The Commission may conduct inspections of the facilities, as well as review all written

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materials required in accordance with 935 CMR 500.000.

(e) The applicable license fee shall be paid within 90 days from the date the applicant was approved for a provisional license by the Commission. Failure to pay the applicable license fee within the required time frame shall result in the license approval expiring. If this occurs, a new license application will need to be completed pursuant to 935 CMR 500.101 and will require Commission approval.

(f) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 500.103(4).

(g) Prior to the issuance of a final license, an Independent Testing Laboratory shall demonstrate compliance with 935 CMR 500.050(7)(a) and provide to the Commission documentation relating to its accreditation.

(h) To the extent that an Applicant for a Delivery Operator License decides, following the submission of the Application for Provisional Licensure, but prior to receiving Final Licensure, that the Applicant will engage in White Labeling, the Applicant shall submit the information required by 935 CMR 500.101(3)(h)4. to the Commission. The Executive Director shall determine whether the submission satisfies the requirements of 935 CMR 500.101(3)(h)4.

(2) Final License. On completion of all inspections required by the Commission, a Marijuana Establishment is eligible for a final license. All information described in 935 CMR 500.000 that is not available at the time of submission shall be provided to and approved by the Commission before Marijuana Establishment may receive a final license. Such final licenses shall be subject to reasonable conditions specified by the Commission, if any.

(a) No person or entity shall operate a Marijuana Establishment without a final license issued by the Commission.

(b) A provisional or final license may not be assigned or transferred without prior Commission approval.

(c) A provisional or final license shall be immediately void if the Marijuana Establishment Ceases to Operate or if, without the permission of the Commission, it relocates.

(d) Acceptance of a provisional or final license constitutes an agreement by the Marijuana Establishment that it will adhere to the practices, policies, and procedures that are described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Commission as part of licensure.

(e) The Marijuana Establishment shall post the final license in a conspicuous location on the Premises at each Commission-approved location.

(f) The Marijuana Establishment shall conduct all activities authorized by 935 CMR 500.000 at the address(es) identified on the final license issued by the Commission.

(3) The Marijuana Establishment shall be operational within the time indicated in 935 CMR 500.101(1)(c)5. or as otherwise amended through the application process and approved by the Commission through the issuance of a final license.

(4) Expiration and Renewal of Licensure. The Marijuana Establishment's license, as applicable, shall expire one year after the date of issuance of the provisional license and annually thereafter, and may be renewed as follows, unless an action has been taken based on the grounds set forth in 935 CMR 500.450.

(a) No later than 90 calendar days prior to the expiration date, a Marijuana Establishment shall submit a completed renewal application to the Commission in a form and manner determined by the Commission, as well as the required license fee.

(b) The Marijuana Establishment shall submit as a component of the renewal application a report or other information demonstrating the establishment's efforts to comply with the plans required under 935 CMR 500.101(1), including 935 CMR 500.101(1)(a)11. and 935 CMR 500.100(1)(c)8.k., as applicable. The report shall, at a minimum, have detailed, demonstrative, and quantifiable proof of the establishment's efforts, progress, and success of said plans.

(c) A Marijuana Cultivator engaged in indoor cultivation shall include a report of the Marijuana Cultivator's energy and water usage over the 12-month period preceding the date of the application.

(d) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted



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under 935 CMR 500.103(4).

(e) The Marijuana Establishment shall submit as a component of the renewal application certification of good standing from the Secretary of the Commonwealth, the DOR, and the DUA. Certificates of good standing will be valid if issued within 90 days of the submittal of the renewal application.

(f) A Marijuana Establishment shall submit as a component of the renewal application documentation that the establishment requested from its Host Community the records of any cost to a city or town reasonably related to the operation of the establishment, which would include the city's or town's anticipated and actual expenses resulting from the operation of the establishment in its community. The applicant shall provide a copy of the electronic or written request, which should include the date of the request, and either the substantive response(s) received or an attestation that no response was received from the city or town. The request should state that, in accordance with M.G.L. c. 94G, § 3(d), any cost to a city or town imposed by the operation of a Marijuana Establishment or MTC shall be documented and considered a public record as defined by M.G.L. c. 4, § 7, cl. 26.

(g) The Marijuana Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.

(h) The Marijuana Establishment shall comply with the requirements of 935 CMR 500.104(1) in accordance with that section separately from the renewal application.

(i) Commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee to a Licensee in accordance with M.G.L. c. 94G, § 6, if the Licensee:

1. Is in good standing with the Secretary of Commonwealth, DOR, and DUA;
2. Provided documentation demonstrating substantial effort or progress towards achieving its goals submitted as part of its plans required under 935 CMR 500.101(1), including 935 CMR 500.101(1)(a)11. and 500.101(1)(c)8.k., as applicable; and
3. No new information submitted as part of the renewal application, or otherwise obtained, presents suitability issues for any individual or entity listed on the application or license.

(j) All Economic Empowerment Priority Applicants shall submit, as part of its renewal application, an attestation in a form and manner determined by the Commission, executed by the individuals who, through ownership, qualify an applicant or licensee as an Economic Empowerment Priority Applicant certifying that:

1. Such individuals have had control and ownership since licensure, or the most recent renewal; and
2. The licensee acknowledges that it may only avail itself of the benefits of Economic Empowerment Priority Applicant status so long as such individuals continue to have control and ownership or otherwise satisfy the criteria of Economic Empowerment Priority Applicant status as provided 935 CMR 500.002.

(k) CMO Marijuana Retailers shall submit the following information pertaining to patient supply of Marijuana:

1. The licensee's policy and the procedures (*e.g.*, data points, formulas) relied on to determine what constitutes a sufficient quantity and variety of Marijuana Products consistent with 935 CMR 500.140(15); and
2. The licensee's policy and procedures for determining what qualifies as a reasonable substitution for a medical Marijuana Product under 935 CMR 500.140(15) and its policy for communicating reliance on the substitution to patients.

(5) The Commission shall maintain a publicly available and searchable source of information about all operating licensees, including Delivery Licensees, on its website.

### 500.105: General Operational Requirements for Marijuana Establishments

(1) Written Operating Procedures. Every Marijuana Establishment shall have and follow a set of detailed written operating procedures. If the Marijuana Establishment has an additional location, it shall develop and follow a set of such operating procedures for that facility. A CMO shall have written operating procedures that comply with both 935 CMR 500.105(1) and 501.105(1): *Written Operating Procedures*, and may do so by having two sets of written operating procedures applicable to each medical-use and adult-use operations or having one set of written operating procedures, provided it complies with both medical-use and adult-use requirements. Operating procedures shall include, but need not be limited to, the following:

- (a) Security measures in compliance with 935 CMR 500.110;
- (b) Employee security policies, including personal safety and crime prevention techniques;
- (c) A description of the Marijuana Establishment's hours of operation and after-hours

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contact information, which shall be provided to the Commission, made available to Law Enforcement Authorities on request, and updated pursuant to 935 CMR 500.000;

(d) Storage and waste disposal of Marijuana in compliance with 935 CMR 500.105(11) and (12);

(e) Description of the various strains of Marijuana to be cultivated, Processed or sold, as applicable, and the form(s) in which Marijuana will be sold;

(f) Price list for Marijuana and Marijuana Products and any other available products, and alternate price lists for patients with documented Verified Financial Hardship, as defined in 935 CMR 501.002: *Verified Financial Hardship*, as required by 935 CMR 501.105(1)(f);

(g) Procedures to ensure accurate recordkeeping, including inventory protocols for Transfer and inventory in compliance with 935 CMR 500.105(8) and (9);

(h) Plans for quality control, including product testing for contaminants in compliance with 935 CMR 500.160;

(i) A staffing plan and staffing records in compliance with 935 CMR 500.105(9)(d);

(j) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;

(k) Alcohol, smoke, and drug-free workplace policies;

(l) A plan describing how Confidential Information and other records required to be maintained confidentially will be maintained;

(m) A policy for the immediate dismissal of any Marijuana Establishment Agent who has:

1. Diverted Marijuana, which shall be reported to Law Enforcement Authorities and to the Commission;

2. Engaged in unsafe practices with regard to operation of the Marijuana Establishment, which shall be reported to the Commission; or

3. Been convicted or entered a guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of any Other Jurisdiction.

(n) A list of all board of directors, members and Executives of a Marijuana Establishment, and Members, if any, of the Licensee shall be made available on request by any individual. This requirement may be fulfilled by placing this required information on the Marijuana Establishment's website;

(o) Policies and procedure for the handling of cash on Marijuana Establishment Premises including, but not limited to, storage, collection frequency, and transport to financial institution(s), to be available on inspection.

(p) Policies and procedures to prevent the diversion of Marijuana to individuals younger than 21 years old;

(q) Policies and procedures for energy efficiency and conservation that shall include:

1. Identification of potential energy use reduction opportunities (including, but not limited to, natural lighting, heat recovery ventilation and energy efficiency measures), and a plan for implementation of such opportunities;

2. Consideration of opportunities for renewable energy generation including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
  3. Strategies to reduce electric demand (such as lighting schedules, active load management and energy storage); and
  4. Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.
- (r) Policies and procedures to promote workplace safety consistent with the standards set forth under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, *et seq.*, including the general duty clause under 29 U.S.C. § 654, whereby each employer:
1. shall furnish to each of its employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees;
  2. shall comply with occupational safety and health standards promulgated under this act. Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to 29 U.S.C. § 651, *et seq.*, which are applicable to the employee's own actions and conduct. All current and updated regulations and references at 29 CFR Parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928 and 1977 are incorporated by reference, and applicable to all places of employment covered by 935 CMR 500.000.
- All current and updated regulations and references at 29 CFR Parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928, and 1977 are incorporated by reference, and applicable to all places of employment covered by 935 CMR 500.000.

(2) Marijuana Establishment Agent Training.

- (a) Marijuana Establishments, including Independent Testing Laboratories, shall ensure that all Marijuana Establishment Agents complete minimum training requirements prior to performing job functions.
1. At a minimum, Marijuana Establishment Agents shall receive a total of eight hours of training annually. The eight-hour total training requirement shall be tailored to the roles and responsibilities of the job function of each Marijuana Establishment Agent.
  2. A minimum of four hours of training shall be from Responsible Vendor Training Program courses established under 935 CMR 500.105(2)(b). Any additional RVT hours over the four-hour RVT requirement may count toward the eight-hour total training requirement.
  3. Non-RVT training may be conducted in-house by the Marijuana Establishment or by a third-party vendor engaged by the Marijuana Establishment. Basic on-the-job training Marijuana Establishments provide in the ordinary course of business may be counted toward the eight-hour total training requirement.
  4. Agents responsible for tracking and entering product into the Seed-to-sale SOR shall receive training in a form and manner determined by the Commission. At a minimum, staff shall receive eight hours of on-going training annually.
  5. Marijuana Establishments shall maintain records of compliance with all training requirements noted above. Such records shall be maintained for four years and Marijuana Establishments shall make such records available for inspection on request.
  6. An individual who is both a Marijuana Establishment Agent and MTC Agent at a CMO location shall receive the training required for each license under which the agent is registered including, without limitation, with respect to patient privacy and confidentiality requirements, which may result in instances that would require such an agent to participate in more than eight hours of training.
- (b) Responsible Vendor Training.
1. All current Marijuana Establishment Agents, including Laboratory Agents, involved in the handling or sale of Marijuana for adult use at the time of licensure or renewal of licensure, as applicable, shall have attended and successfully completed a Responsible Vendor Training Program to be designated a "Responsible Vendor".
    - a. Marijuana Establishment Agents shall first take the Basic Core Curriculum.
    - b. On completing the Basic Core Curriculum, a Marijuana Establishment Agent is eligible to take the Advanced Core Curriculum.
    - c. Exception for Administrative Employees. Marijuana Establishment Agents who serve as administrative employees and do not handle or sell Marijuana are exempt from the four-hour RVT requirement, but may take a Responsible Vendor Training Program course on a voluntary basis as part of fulfilling the eight-hour total training requirement.

2. Once a Marijuana Establishment is designated a Responsible Vendor, all Marijuana Establishment Agents employed by the Marijuana Establishment that are involved in the handling or sale of Marijuana for adult use shall successfully complete the Basic Core Curriculum within 90 days of hire.
3. After successful completion of the Basic Core Curriculum, each Marijuana Establishment Agent involved in the handling or sale of Marijuana for adult use shall fulfill the four-hour RVT requirement every year thereafter for the Marijuana Establishment to maintain designation as a Responsible Vendor. Failure to maintain Responsible Vendor status is grounds for action by the Commission.
4. Responsible Vendor Trainer Certification.
  - a. No owner, manager or employee of a Responsible Vendor Trainer may be a Person Or Entity Having Direct Or Indirect Ownership or Control of a Marijuana Establishment.
  - b. Responsible Vendor Trainers shall submit their program materials to the Commission prior to offering courses, every two years following for Commission certification of the Responsible Vendor Trainer and Responsible Vendor Training Program curriculum, and on request. The process for certification will be in a form and manner determined by the Commission.
  - c. Responsible Vendor Training Program courses shall consist of at least two hours of instruction time.
  - d. Except as provided in 935 CMR 500.105(2)(b)4.e., Responsible Vendor Training Program courses shall be taught in a real-time, interactive, virtual or in-person classroom setting in which the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual.
  - e. Responsible Vendor Training Program courses may be presented in a virtual format that is not taught in a real-time, provided that the Responsible Vendor Trainer, as part of its application for certification, can demonstrate means:
    - i. To verify the identification of each trainee participating in the program course and certify completion by the individual;
    - ii. To track trainees' time needed to complete the course training;
    - iii. To allow for the trainees to ask questions of the Responsible Vendor Trainer, for example, by email, virtual discussion board, or group/class discussion; and
    - iv. To evaluate each trainee's proficiency with course material.
  - f. Responsible Vendor Trainers shall seek certification for each Basic Core Curriculum and Advanced Core Curriculum. Applications for Advanced Core Curriculum certification will be open on or before July 1, 2022.
  - g. Responsible Vendor Trainers shall maintain its training records at its principal place of business for four years.
  - h. Responsible Vendor Trainers shall make the records available for inspection by the Commission and any other applicable licensing authority on request during normal business hours.
  - i. Responsible Vendor Trainers shall provide to the appropriate Marijuana Establishment and Marijuana Establishment Agent written documentation of attendance and successful evaluation of proficiency, such as passage of a test on the knowledge of the required curriculum for each attendee.
  - j. Trainees who can speak and write English fluently shall successfully demonstrate proficiency, such as passing a written test with a score of 70% or better.
  - k. Marijuana Establishment Agents who cannot speak or write English may be offered a verbal evaluation or test, provided that the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better.
  - l. Responsible Vendor Trainers shall solicit effectiveness evaluations from Marijuana Establishment Agents who have completed their program(s).
5. Basic Core Curriculum. The Basic Core Curriculum shall cover the following subject matter:
  - a. Marijuana's effect on the human body, including:
    - i. Scientifically based evidence on the physical and mental health effects based on the type of Marijuana Product;

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- ii. The amount of time to feel impairment;
    - iii. Visible signs of impairment; and
    - iv. Recognizing the signs of impairment.
  - b. Diversion prevention and prevention of sales to minors, including best practices.
  - c. Compliance with all tracking requirements.
  - d. Acceptable forms of identification. Training shall include:
    - i. How to check identification;
    - ii. Spotting and confiscating fraudulent identification;
    - iii. Patient registration cards currently and validly issued by the Commission;
    - iv. Common mistakes made in identification verification.
    - v. Prohibited purchases and practices, including purchases by persons younger than 21 years of age in violation of M.G.L. c. 94G, § 13.
    - e. Other key state laws and rules affecting Marijuana Establishment Agents, which shall include:
      - i. Conduct of Marijuana Establishment Agents;
      - ii. Permitting inspections by state and local licensing and enforcement authorities;
      - iii. Local and state licensing and enforcement, including registration and license sanctions;
      - iv. Incident and notification requirements;
      - v. Administrative, civil, and criminal liability;
      - vi. Health and safety standards, including waste disposal;
      - vii. Patrons prohibited from bringing Marijuana and Marijuana Products onto licensed premises;
      - viii. Permitted hours of sale;
      - ix. Licensee responsibilities for activities occurring within licensed premises;
      - x. Maintenance of records, including confidentiality and privacy; and
    - f. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.
- 6. Advanced Core Curriculum.
  - a. Each Advanced Core Curriculum class shall be approved by the Commission prior to being offered. The curriculum shall build on the knowledge, skills, and practices covered in the Basic Core Curriculum.
  - b. An Advanced Core Curriculum class shall include standard and best practices in one or more of the following areas
    - i. Cultivation;
    - ii. Product Manufacturing;
    - iii. Retail;
    - iv. Transportation;
    - v. Social Consumption;
    - vi. Laboratory Science;
    - vii. Energy and Environmental Best Practices;
    - viii. Social Justice and Economically Reparative Practices;
    - ix. Implicit Bias and Diversity Training;
    - x. Worker Safety;
    - xi. Food Safety and Sanitation;
    - xii. Confidentiality and Privacy;
    - xiii. In depth coverage of any topic(s) taught in the Basic Core Curriculum; or
    - xiv. Such other topic as the Commission may approve in its sole discretion.
- 7. Delivery Core Curriculum. In addition to the Basic Core Curriculum, all Marijuana Establishment Agents acting as delivery employees of a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall have attended and successfully completed Delivery Core Curriculum prior to making a delivery, which shall, to the extent not covered in Basic Core Training include, without limitation, training on:
  - a. Safely conducting deliveries;
  - b. Safe cash handling practices;
  - c. Strategies for de-escalating potentially dangerous situations;
  - d. Securing product following any instance of diversion, theft or loss of Finished Marijuana Products pursuant to 935 CMR 500.110(1)(m);
  - e. Collecting and communicating information to assist in investigations;

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- f. Procedures for checking identification;
- g. Indications of impairment;
- h. Notification to Consumers of use of mandatory recording devices; and
- i. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

(3) Requirements for the Handling of Marijuana.

(a) A Marijuana Establishment authorized to Process Marijuana shall do so in a safe and sanitary manner. A Marijuana Establishment shall Process the leaves and flowers of the female Marijuana plant only, which shall be:

- 1. Well cured and free of seeds and stems;
- 2. Free of dirt, sand, debris, and other foreign matter;
- 3. Free of contamination by mold, rot, other fungus, pests and bacterial diseases and satisfying the sanitation requirements in 105 CMR 500.000, and if applicable, 105 CMR 590.000: *State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments*;
- 4. Prepared and handled on food-grade stainless steel tables with no contact with Licensees' or Marijuana Establishment Agents' bare hands; and
- 5. Packaged in a secure area.

(b) All Marijuana Establishments, including those that develop, Repackage, or Process non-Edible Marijuana Products, shall comply with the following sanitary requirements:

- 1. Any Marijuana Establishment Agent whose job includes contact with Marijuana or non-Edible Marijuana Products, including cultivation, production, or packaging, is subject to the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*;
- 2. Any Marijuana Establishment Agent working in direct contact with preparation of Marijuana or non-Edible Marijuana Products shall conform to sanitary practices while on duty, including:
  - a. Maintaining adequate personal cleanliness; and
  - b. Washing hands thoroughly in an adequate hand-washing area before starting work, and at any other time when hands may have become soiled or contaminated.
- 3. Hand-washing facilities shall be adequate and convenient and shall be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Marijuana Establishment in Production Areas and where good sanitary practices require Employees to wash and sanitize their hands, and shall provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;
- 4. There shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;
- 5. Litter and waste shall be properly removed, disposed of so as to minimize the development of odor and minimize the potential for the waste attracting and harboring pests. The operating systems for waste disposal shall be maintained in an adequate manner pursuant to 935 CMR 500.105(12);
- 6. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;
- 7. There shall be adequate safety lighting in all Processing and storage areas, as well as areas where equipment or utensils are cleaned;
- 8. Buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;
- 9. All contact surfaces, including utensils and equipment, shall be maintained in a clean and sanitary condition. Such surfaces shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the U.S. Environmental Protection Agency (EPA), in accordance with labeled instructions. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable;
- 10. All toxic items shall be identified, held, and stored in a manner that protects against contamination of Marijuana Products. Toxic items may not be stored in an area containing products used in the cultivation of Marijuana. The Commission may require a Marijuana Establishment to demonstrate the intended and actual use of any toxic items found on the Premises;

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11. A Marijuana Establishment's water supply shall be sufficient for necessary operations. Any private water source shall be capable of providing a safe, potable, and adequate supply of water to meet the Marijuana Establishment's needs;
  12. Plumbing shall be of adequate size and design, and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the Marijuana Establishment. Plumbing shall properly convey sewage and liquid disposable waste from the Marijuana Establishment. There shall be no cross-connections between the potable and wastewater lines;
  13. A Marijuana Establishment shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair;
  14. Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;
  15. Storage and transportation of finished products shall be under conditions that will protect them against physical, chemical, and microbial contamination as well as against deterioration of finished products or their containers; and
  16. All vehicles and transportation equipment used in the transportation of Marijuana Products or Edibles requiring temperature control for safety shall be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Marijuana Products or Edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).
- (c) All Marijuana Establishments, including those that develop or Process Edibles, shall comply with sanitary requirements. All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*.
- (d) Unless otherwise authorized by the Commission, a CMO shall comply with 935 CMR 500.105(3) and 501.105(3): *Handling of Marijuana*.

(4) Advertising Requirements.

- (a) Permitted Practices. The following Advertising activities are permitted:
1. A Marijuana Establishment may develop a Brand Name to be used in labeling, signage, and other materials; provided however, that use of medical symbols, images of Marijuana or Marijuana Products or related Paraphernalia images that are appealing to persons younger than 21 years old, and colloquial references to Marijuana and Cannabis are prohibited from use in the Brand Name
  2. Brand Name Sponsorship of a charitable, sporting or similar event, so long as the following conditions are met.
    - a. Sponsorship of the event is limited to the Brand Name.
    - b. Any Advertising at or in connection with such an event is prohibited, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data;
  3. Brand Name Sponsorship of a charitable, cultural or similar event both held and organized by the city or town in which the sponsoring Marijuana Establishment or CMO is licensed to conduct business, so long as the following conditions are met:
    - a. Sponsorship of said event shall be included in its Positive Impact Plan submitted in accordance with 935 CMR 500.101(1)(a)11;
    - b. Sponsorship of the event is limited to the Brand Name;
    - c. Any Advertising at or in connection with such an event is prohibited, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data;
  4. A Marijuana Establishment engaging in Brand Name Sponsorship under 935 CMR 500.105(4)(a)2. and 3. shall retain documentation of reliable, reasonable audience composition data that is the basis for allowing any such Advertising or branding for a period of one year, or longer if otherwise required by the Commission, or a court or agency with jurisdiction.

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5. A Marijuana Establishment may display, in secure, locked cases, samples of each product offered for sale and subject to the requirements of 935 CMR 500.110. These display cases may be transparent. An authorized Marijuana Establishment Agent may remove a sample of Marijuana from the case and provide it to the Consumer for inspection, provided the Consumer may not consume or otherwise use the sample, unless otherwise authorized herein;
  6. The Marijuana Establishment may post prices in the store and may respond to questions about pricing. The Marijuana Establishment shall provide a catalogue or a printed list of the prices and strains of Marijuana available at the Marijuana Establishment to Consumers and may post the same catalogue or printed list on its website and in the retail store;
  7. A Marijuana Establishment may engage in reasonable Advertising practices that are not otherwise prohibited in 935 CMR 500.105(4)(b) that do not jeopardize the public health, welfare or safety of the general public or promote the diversion of Marijuana or Marijuana use in individuals younger than 21 years old or otherwise promote practices inconsistent with the purposes of M.G.L. c. 94G or 94I. Any such Advertising created for viewing by the public shall include the statement "Please Consume Responsibly", in a conspicuous manner on the face of the advertisement and shall include a minimum of two of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:
    - a. "This product may cause impairment and may be habit forming.";
    - b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug.";
    - c. "There may be health risks associated with consumption of this product.";
    - d. "For use only by adults 21 years of age or older. Keep out of the reach of children."; or
    - e. "Marijuana should not be used by women who are pregnant or breastfeeding."
  8. All Advertising produced by or on behalf of a Marijuana Establishment for Marijuana or Marijuana Products shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, § 4(a<sup>1/2</sup>)(xxvi):

"This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN. There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of Edibles may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA."
  9. A Licensee may utilize employee discounts as part of the Marijuana Establishment's operating policy and procedure for prevention of diversion pursuant to 935 CMR 500.101(1)(c)8.b. Institution of an employee discount program under 500.101(1)(c)8.b. shall not be considered a prohibited practice under 935 CMR 500.105(4)(b).
- (b) Prohibited Practices. The following Advertising activities are prohibited:
1. Advertising in such a manner that is deemed to be is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;
  2. Advertising by means of television, radio, internet, mobile applications, social media, or other electronic communication, billboard or other outdoor Advertising, or print publication, unless at least 85% of the audience is reasonably expected to be 21 years of age or older as determined by reliable and current audience composition data;
  3. Advertising that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old;
  4. Advertising including, but not limited to, mascots, cartoons, and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;
  5. Brand sponsorship including, but not limited to, mascots, cartoons, and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;
  6. Advertising, including statements by a Licensee, that makes any false or statements concerning other Licensees and the conduct and products of such other Licensees that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;



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7. Advertising by a Licensee that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a½)(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission;
  8. Advertising on any billboards, or any other public signage, which fails to comply with all state and local ordinances and requirements;
  9. Use of any illuminated or external signage beyond the period of 30 minutes before sundown until closing; provided, however, that the Commission may further specify minimum signage requirements;
  10. The use of vehicles equipped with radio or loudspeakers for the Advertising of Marijuana or Marijuana Products;
  11. The use of radio or loudspeaker equipment in any Marijuana Establishment for the purpose of Advertising the sale of Marijuana or Marijuana Products;
  12. Brand Name Sponsorship of a charitable, sporting or similar event, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be under 21 years of age, as determined by reliable, current audience composition data;
  13. Operation of any website of a Marijuana Establishment that fails to verify that the entrant is 21 years of age or older;
  14. Any Advertising, including the use of Brand Names, of an improper or objectionable nature including, but not limited to, the use of language or images offensive or disparaging to certain groups;
  15. Any Advertising, solely for the promotion of Marijuana or Marijuana Products on Marijuana Establishment Branded Goods including, but not limited to, clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
  16. Advertising on or in public or private vehicles and at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on transportation vehicles not owned by the Marijuana Establishment;
  17. The display of signs or other printed material Advertising any brand or any kind of Marijuana or Marijuana Products that are displayed on the exterior of any licensed Premises;
  18. Advertising of the price of Marijuana or Marijuana Products, except as permitted above pursuant to 935 CMR 500.105(4)(a)6.;
  19. Display of Marijuana or Marijuana Products so as to be clearly visible to a person from the exterior of a Marijuana Establishment; and
  20. Advertising through the marketing of free promotional items including, but not limited to, gifts, giveaways, discounts, points-based reward systems, customer loyalty programs, coupons, and "free" or "donated" Marijuana, except as otherwise permitted by 935 CMR 500.105(4)(a)9. and except for the provision of Brand Name take-away bags by a Marijuana Establishment for the benefit of customers after a retail purchase is completed.
- (c) Nothing in 935 CMR 500.105(4) prohibits a Marijuana Establishment from using a mark provided by the Commission which uses images of Marijuana or Marijuana Products. CMOs shall comply with the requirements of each 935 CMR 500.105(4) and 501.105(4) with respect to the applicable license. A CMO may develop a single marketing campaign; provided, however, it shall apply the most restrictive requirements applicable under either license.
- (5) Labeling of Marijuana and Marijuana Products.
- (a) Labeling of Marijuana Not Sold as a Marijuana Product. Prior to Marijuana being sold or Transferred, a Marijuana Establishment shall ensure the placement of a legible, firmly Affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each package of Marijuana that it makes available for retail sale containing at a minimum the following information:
    1. The name and registration number, telephone number and email address of the Licensee that produced the Marijuana, together with the retail Licensee's business telephone number, email address, and website information, if any;

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2. The date that the Marijuana Establishment packaged the contents and a statement of which Licensee performed the packaging;
3. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
4. Net weight or volume in U.S. customary and metric units, listed in that order;
5. The full Cannabinoid Profile of the Marijuana contained within the package, including THC and other Cannabinoid levels;
6. A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
7. This statement, including capitalization:  
“This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. “KEEP THIS PRODUCT AWAY FROM CHILDREN.”;
8. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:



9. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



10. 935 CMR 500.105(5)(a) shall apply to Marijuana packaged as a Finished Marijuana Product for purposes of Wholesale to a Delivery Operator for delivery to Consumers, provided that the Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative is responsible for compliance with 935 CMR 500.105(5) for all Marijuana intended to be wholesaled for delivery to Consumers by a Delivery Operator. White labeling of Finished Marijuana Products wholesaled from a Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative for delivery to Consumers by a Delivery Operator may be performed by either Licensee, provided that white labeling is explicitly authorized by the Commission under the specific Delivery Operator License and reflected in any Wholesale Agreement.

11. 935 CMR 500.105(5)(a) shall not apply to Marijuana packaged for transport of wholesale cultivated Marijuana in compliance with 935 CMR 500.105(8); provided however, that the Marijuana Retailer is responsible for compliance with 935 CMR 500.105(5) for all Marijuana sold or displayed to Consumers.

(b) Labeling of Edibles. Prior to Edibles being sold or Transferred, the Marijuana Product Manufacturer shall place a legible, firmly Affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each Edible that it prepares for retail sale or wholesale, containing at a minimum the following information:

1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address, and website information, if any;
2. The name of the Marijuana Product;
3. Refrigeration of the product is required, as applicable;
4. Total net weight or volume in U.S. customary and metric units, listed in that order, of the Marijuana Product;

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5. The number of servings within the Marijuana Product based on the limits provided in 935 CMR 500.150(3) and the specific weight in milligrams of a serving size;
6. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
7. A list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
8. The amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
9. The date of creation and the recommended "use by" or expiration date which may not be altered or changed;
10. A batch number, sequential serial number and bar codes when used, to identify the batch associated with manufacturing and Processing;
11. Directions for use of the Marijuana Product;
12. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
13. A warning if nuts or other Known Allergens are contained in the product; and
14. This statement, including capitalization: "The impairment effects of edible products may be delayed by two hours or more. This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.**";
15. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:



16. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



17. 935 CMR 500.105(5)(b) shall apply to Edibles produced by a Marijuana Product Manufacturer for transport to a Licensee in compliance with 935 CMR 500.105(8) and shall be in addition to any regulation regarding the appearance of Edibles under 935 CMR 500.150.
  18. The White Labeling of Edibles to be sold and delivered by a Delivery Operator may be conducted by the licensed Microbusiness or Product Manufacturer of the Edible at the Microbusiness's or Product Manufacturer's Premises or by the Delivery Operator at the Warehouse of the Delivery Licensee, provided that White Labeling is explicitly authorized by the Commission under the specific Delivery Operator License and reflected in any Wholesale Agreement.
- (c) Labeling of Marijuana Concentrates and Extracts. Prior to Marijuana concentrates or extracts being sold or Transferred, the Marijuana Product Manufacturer shall place a legible, firmly Affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each Marijuana concentrate container that it prepares for retail sale or wholesale, containing at a minimum the following information:

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1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address, and website information, if any;
2. The name of the Marijuana Product;
3. Product identity including the word "concentrate" or "extract" as applicable;
4. Total net weight or volume expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;
5. If applicable, the number of servings in the Marijuana Product based on the limits provided in 935 CMR 500.150(4) and the specific weight in milligrams of a serving size;
6. The type of Marijuana used to produce the product including what, if any, Processing technique or solvents were used;
7. A list of ingredients including, but not limited to, the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume, and the amount of specific additives infused or incorporated during the manufacturing process, whether active or inactive including, but not limited to, thickening agents, thinning agents, and specific terpenes, expressed in absolute terms and as a percentage of volume.
  - a. For Marijuana Vaporizer Devices, identification of specific additives shall include, but not be limited to, any additives identified on the FDA's Inactive Ingredient Database for "Respiratory (inhalation)" or "Oral" routes of administration and based on dosage form as an aerosol product or inhalant. The FDA Inactive Ingredient Database is available at <https://www.fda.gov/media/72482/download>. If the FDA database or its equivalent is no longer available, licensees shall use the database identified by the Commission.
  - b. For Marijuana Vaporizer Devices produced using only cannabis-derived terpenes, the following statement: "This product was produced using only cannabis-derived terpenes."
  - c. For Marijuana Vaporizer Devices produced using terpenes other than cannabis-derived terpenes, the following statement: "This product was produced using terpenes derived from sources other than cannabis."
8. The date of creation and the recommended "use by" or expiration date;
9. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
10. Directions for use of the Marijuana Product;
11. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
12. A warning if nuts or other Known Allergens are contained in the product;
13. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.**";
14. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:



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15. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



16. 935 CMR 500.105(5)(c) shall apply to Marijuana concentrates and extracts produced by a Marijuana Product Manufacturer for transport to a Marijuana Retailer in compliance with 935 CMR 500.105(13).

(d) Labeling of Marijuana Infused Tinctures and Topicals. Prior to Marijuana infused Tinctures or topicals being sold or Transferred the Marijuana Product Manufacturer shall place a legible, firmly Affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each container of Marijuana infused Tincture or topical that it prepares for retail sale or wholesale, containing at a minimum the following information:

1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address, and website information, if any;
2. The Marijuana Product's identity;
3. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
4. A list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
5. Total net weight or volume as expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;
6. If applicable, the number of servings in the Marijuana Product based on the limits provided in 935 CMR 500.150(4) and the specific weight in milligrams of a serving size;
7. The date of product creation;
8. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
9. Directions for use of the Marijuana Product;
10. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
11. A warning if nuts or other Known Allergens are contained in the product; and
12. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
13. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:





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14. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



15. 935 CMR 500.105(5)(d) shall apply to Marijuana-infused Tinctures and topicals produced by a Marijuana Product Manufacturer for transport to a Licensee in compliance with 935 CMR 500.105(8).

(e) Labeling of Repackaged Marijuana. Prior to Repackaged Marijuana being sold, the Retailer shall place a legible, firmly Affixed label on which the wording is no less than  $\frac{1}{4}$  inch in size on each container of Marijuana that it prepares for retail sale,

1. The Affixed label shall contain at a minimum the following information:

- a. The name and registration number of the Cultivator that produced the Marijuana;
- b. Business or trade name of licensee that packaged the product, if different from the Cultivator;
- c. Date of Harvest;
- d. Type of Marijuana or name of strain;
- e. The full Cannabinoid Profile of the Marijuana contained within the Repackaged Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other Cannabinoids in the package;
- f. The net weight or volume as expressed in U.S. customary units or metric units;
- g. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
- h. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
- i. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
- j. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:



k. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



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(f) In circumstances where the labeling of the Marijuana Product is unreasonable or impractical, the Marijuana Establishment may include the labeling information on a peel-back label or may place the product in a take-away bag with an insert or additional, easily readable label placed within that bag.

(g) CMOs shall comply with the labeling requirements in 935 CMR 500.105(5) for all adult-use sales and 935 CMR 501.105(5): *Labeling of Marijuana and Marijuana Products* for all medical-use sales.

(6) Packaging of Marijuana and Marijuana Products.

(a) Child-resistant Packaging. Licensees licensed subject to 935 CMR 500.050(4) shall ensure that all Marijuana Products that are provided for sale to Consumers by a Licensee shall be sold in child-resistant packaging. Licensees licensed subject to 935 CMR 500.050(2) shall ensure that all Finished Marijuana Products provided at wholesale for delivery to Consumers by a Marijuana Delivery Operator shall be sold in child-resistant packaging. To comply with 935 CMR 500.105(6), Licensees shall ensure:

1. That to the extent it is not Unreasonably Impracticable for the specific type of product, Marijuana Products are packaged in containers that are:

- a. Opaque and plain in design;
- b. Do not use bright colors, cartoon characters and other features designed to appeal to minors;
- c. Resealable for any marijuana product intended for more than a single use or containing multiple servings; and
- d. Certified by a qualified child-resistant packaging testing firm that the packaging complies with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700: *Poison Prevention Packaging*.

2. That where compliance with the requirements of child-resistant packaging is deemed to be Unreasonably Impracticable, Marijuana or Marijuana Products shall be placed in an exit package that is:

- a. Capable of being resealed and made child-resistant resistant again after it has been opened;
- b. Includes the following statement, including capitalization, in at least ten-point Times New Roman, Helvetica or Arial font: "KEEP OUT OF REACH OF CHILDREN."; and
- c. Is certified by a qualified third-party child-resistant packaging testing firm that the packaging complies the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700: *Poison Prevention Packaging*.

(b) Limits on Packaging Design. Packaging for Marijuana or Marijuana Products sold or displayed for Consumers, including any label or imprint affixed to any packaging containing Marijuana, Marijuana Products or any exit packages, may not be attractive minors. Packaging is explicitly prohibited from:

1. Using bright colors, defined as colors that are "neon" in appearance;
2. Imitating or having a semblance to any existing branded consumer products, including foods and Beverages, that do not contain marijuana;
3. Featuring cartoons;
4. Featuring a design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
5. Featuring symbols or celebrities that are commonly used to market products to minors;
6. Featuring images of minors; and
7. Featuring words that refer to products that are commonly associated with minors or marketed to minors.

(c) Packaging of Multiple Servings.

1. Packaging for Marijuana Products sold or displayed for Consumers in multiple servings shall include the following statement on the exterior of the package in a printed font that is no smaller than ten-point Times New Roman, Helvetica or Arial, including capitalization: "INCLUDES MULTIPLE SERVINGS".

2. Packaging for Marijuana Products in solid form sold or displayed for Consumers in multiple servings shall allow a Consumer to easily perform the division into single servings.

- a. Edibles in a solid form shall be easily and permanently scored to identify individual servings.
- b. Notwithstanding 935 CMR 500.105(6)(c)2.a., where a product is unable, because of its form, to be easily and permanently scored to identify individual servings, the product shall be packaged in a single serving size. The determination

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of whether a product can be easily and permanently scored shall be decided by the Commission consistent with sub-regulatory guidelines established by the Commission and provided to Licensees.

c. Packaging for Marijuana Product Beverages shall be packages solely in a single serving size. Multiple-serving Beverages are strictly prohibited for sale.

(d) Each single serving of an Edibles contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with the symbol issued by the Commission under 935 CMR 500.105(5) that indicates that the single serving is a Marijuana Product.

(e) Serving size shall be determined by the processor, but in no instance shall an individual serving size of any Marijuana Product contain more than five milligrams of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) subject to the testing variance specified in 935 CMR 500.160(12).

(f) CMOs shall comply with the packaging requirements in 935 CMR 500.105(6) for adult use sales or 935 CMR 501.105(6) for medical use sales.

(7) Packaging and Labeling Preapproval. Prior to Marijuana or Marijuana Product being sold at a Marijuana Establishment, a CMO, a Licensee or License Applicant may submit an application for packaging and label approval to the Commission. An application for preapproval may be submitted at any time prior to Marijuana or Marijuana Product being sold or at any time a substantive change is made to the packaging or labeling of Marijuana or Marijuana Product. The Commission shall charge a fee for packaging and labeling preapproval pursuant to 935 CMR 500.005.

(a) Packaging and labeling preapproval review shall be limited to the physical attributes of, and statutorily required warnings on, the packaging and label including, but not limited to, legibility, but shall not include a review of specific Independent Testing Laboratory test results required pursuant to 935 CMR 500.105(5) and (6). The packaging and labeling preapproval process shall be in addition to the requirements of 935 CMR 500.105(4) through (6).

(b) In addition to an application for packaging and labeling preapproval in a form and manner determined by the Commission, an applicant for preapproval shall submit electronic files of the following to the Commission:

1. For packaging preapproval, two images of the packaging, one depicting the front of the packaging and one depicting the back of the packaging. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

2. For labeling preapproval, one image of each label requested for review. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) The Commission shall make every effort to make a preapproval determination based on information submitted. In the event that a preapproval determination is unable to be made conclusively based on submitted photographs, the Commission may request to view the packaging or label in person or through a video conference. Any such request by the Commission shall be made to the applicant electronically or in writing.

(8) Inventory and Transfer.

(a) Subject to Marijuana or Marijuana Products being entered into the Seed-to-sale SOR, a Marijuana Establishment may Transfer product to an MTC; and an MTC may Transfer product to a Marijuana Establishment as long as there is no violation of the dosing limitations set forth in 935 CMR 500.150(4) or the limitations on total MTC inventory as set forth in 935 CMR 501.105(8)(m)1. Such Transfers cannot violate provisions protecting patient supply under 935 CMR 500.140(15). An MTC shall limit its Transfer of inventory of seeds, plants, and Usable Marijuana to reflect the projected needs of Registered Qualifying Patients.

(b) Real-time inventory shall be maintained as specified by the Commission and in 935 CMR 500.105(8)(c) and (d) including, at a minimum, an inventory of Marijuana plants; Marijuana plant-seeds and Clones in any phase of development such as Propagation, Vegetation, and Flowering; Marijuana ready for dispensing; all Marijuana Products; and all damaged, defective, expired, or contaminated Marijuana and Marijuana Products awaiting disposal.

(c) A Marijuana Establishment shall:

1. Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of Marijuana Products in the process of cultivation, and finished, stored Marijuana;

2. Conduct a monthly inventory of Marijuana in the process of cultivation and finished,



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stored Marijuana;

3. Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and

4. Promptly transcribe inventories if taken by use of an oral recording device.

(d) The record of each inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.

(e) A Marijuana Establishment shall attach plant tags to all Marijuana, Clones, and plants and attach package tags to all Finished Marijuana and Marijuana Products, and track all Marijuana seeds, Clones, plants, and Marijuana Products, using a Seed-to-sale methodology in a form and manner to be approved by the Commission.

(f) The failure to enter inventory into the Seed-to-sale SOR may result in the suspension or revocation of a Marijuana Establishment License.

(g) Any distribution and acquisition of Marijuana and Marijuana Products shall be tracked in the Seed-to-sale SOR in a form and manner determined by the Commission. Any distribution of Marijuana and Marijuana Products that is not tracked in the Seed-to-sale SOR may result in the suspension or revocation of a Marijuana Establishment License or other administrative action.

(h) No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000: Adult Use of Marijuana.

(i) A CMO shall implement procedures for electronic separation of medical and adult use Marijuana, MIPs, and Marijuana Products in the Seed-to-sale SOR.

(j) A CMO shall designate whether Marijuana or MIPs, or Marijuana Products are intended for sale for adult use or medical use through the SOR. Products shall be transferred to the appropriate license within the Seed-to-sale SOR prior to sale. After the point of sale, there shall be a reconciliation of that inventory in the SOR.

(9) Recordkeeping. Records of a Marijuana Establishment shall be available for inspection by the Commission, on request. The financial records of a Marijuana Establishment shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include, but are not necessarily limited to, all records required in any section of 935 CMR 500.000, in addition to the following:

(a) Written Operating Procedures as required by 935 CMR 500.105(1);

(b) Inventory Records as required by 935 CMR 500.105(8);

(c) Seed-to-sale SOR Electronic Tracking System records for all Marijuana Products as required by 935 CMR 500.105(8)(e);

(d) The following personnel records:

1. Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;

2. A personnel record for each Marijuana Establishment Agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the marijuana establishment and shall include, at a minimum, the following:

a. All materials submitted to the commission pursuant to 935 CMR 500.030(2);

b. Documentation of verification of references;

c. The job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;

d. Documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;

e. Documentation of periodic performance evaluations;

f. A record of any disciplinary action taken; and

g. Notice of completed Responsible Vendor Training Program and in-house training for Marijuana Establishment Agents required under 935 CMR 500.105(2).

3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;

4. Personnel policies and procedures, including, at a minimum, the following:

a. Code of ethics;

b. Whistle-blower policy; and

c. A policy which notifies persons with disabilities of their rights under <https://www.mass.gov/service-details/about-employment-rights> or a comparable link, and includes provisions prohibiting discrimination and providing reasonable

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accommodations; and

5. All background check reports obtained in accordance with M.G.L c. 6 § 172, 935 CMR 500.029, 935 CMR 500.030, and 803 CMR 2.00: *Criminal Offender Record Information (CORI)*.
  - (e) Business records, which shall include manual or computerized records of:
    1. Assets and liabilities;
    2. Monetary transactions;
    3. Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;
    4. Sales records, including the quantity, form, and cost of marijuana products; and
    5. Salary and wages paid to each employee, or stipend, executive compensation, bonus, benefit, or item of value paid to any persons having direct or indirect control over the marijuana establishment.
  - (f) Waste disposal records as required under 935 CMR 500.105(12); and
  - (g) Following closure of a Marijuana Establishment, all records shall be kept for at least two years at the expense of the Marijuana Establishment and in a form and location acceptable to the Commission.
- (10) Liability Insurance Coverage or Maintenance of Escrow.
- (a) A Marijuana Establishment shall obtain and maintain general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, except as provided in 935 CMR 500.105(10)(b) or otherwise approved by the Commission. The deductible for each policy shall be no higher than \$5,000 per occurrence.
  - (b) A Marijuana Establishment that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 500.105(10)(a) may place in escrow a sum of no less than \$250,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.
  - (c) The escrow account required pursuant to 935 CMR 500.105(10)(b) shall be replenished within ten business days of any expenditure.
  - (d) Reports documenting compliance with 935 CMR 500.105(10) shall be made in a manner and form determined by the Commission pursuant to 935 CMR 500.000.
  - (e) A CMO shall maintain the insurance coverage or escrow account required under 500.105(10) or 934 CMR 501.105(10): *Liability Insurance Coverage or Maintenance of Escrow* per location.
- (11) Storage Requirements.
- (a) A Marijuana Establishment shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 935 CMR 500.105 and 500.110.
  - (b) A Marijuana Establishment shall have separate areas for storage of Marijuana that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging have been opened or breached, until such products are destroyed.
  - (c) Marijuana Establishment storage areas shall be maintained in a clean and orderly condition.
  - (d) Marijuana Establishment storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.
  - (e) Marijuana Establishment storage areas shall be maintained in accordance with the security requirements of 935 CMR 500.110.
- (12) Waste Disposal.
- (a) All recyclables and waste, including organic waste composed of or containing Finished Marijuana and Marijuana Products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations. All exterior waste receptacles located on the Marijuana Establishment's Premises shall be locked and secured to prevent unauthorized access.
  - (b) Liquid waste containing Marijuana or by-products of Marijuana Processing shall be disposed of in compliance with all applicable state and federal requirements, including but not limited to, for discharge of pollutants into surface water or groundwater (Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53; 314 CMR 3.00: *Surface Water Discharge Permit Program*; 314 CMR 5.00: *Groundwater Discharge Permit Program*; 314 CMR 12.00: *Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*; Federal Clean Water Act, 33 U.S.C. 1251 *et*

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*seq.*, National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122: *EPA Administered Permit Programs: The National Pollutant Discharge Elimination System*; 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*), or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: *Industrial Wastewater Holding Tanks and Containers, Construction, Operation, and Record Keeping Requirements*.

(c) Organic material, recyclable material and solid waste generated at a Marijuana Establishment shall be redirected or disposed of as follows:

1. Organic and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017: *Waste Bans*.
2. To the greatest extent feasible:
  - a. Any recyclable material as defined in 310 CMR 16.02: *Definitions* shall be recycled in a manner approved by the Commission; and
  - b. Any Marijuana containing organic material as defined in 310 CMR 16.02: *Definitions* shall be ground up and mixed with other organic material as defined in 310 CMR 16.02: *Definitions* such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the organic material may be composted or digested at an aerobic or anaerobic digester at an operation that complies with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.
3. Solid waste containing Marijuana generated at a Marijuana Establishment shall be ground up and mixed with other solid waste at the Marijuana Establishment such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the resulting solid waste may be brought to a solid waste transfer facility or a solid waste disposal facility (*e.g.*, landfill or incinerator) that holds a valid permit issued by the Department of Environmental Protection or by the appropriate agency in the jurisdiction in which the facility is located.

(d) No fewer than two Marijuana Establishment Agents shall witness and document how the solid waste or organic material containing Marijuana is handled on-site including, but not limited to, the grinding up, mixing, storage and removal from the Marijuana Establishment in accordance with 935 CMR 500.105(12). When Marijuana Products or waste is disposed or handled, the Marijuana Establishment shall create and maintain an electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Marijuana Establishment Agents present during the disposal or other handling, with their signatures. A Marijuana Establishment shall keep these records for at least three years. This period shall automatically be extended for the duration of any disciplinary action and may be extended by an order of the Commission.

### (13) Transportation between Marijuana Establishments.

#### (a) General Requirements.

1. A licensed Marijuana Establishment shall be licensed to transport its Marijuana and Marijuana Products to other licensed establishments, including MTC's, except as otherwise provided herein.
2. Marijuana Products may only be transported between licensed Marijuana Establishments by registered Marijuana Establishment Agents.
3. A licensed Marijuana Transporter may contract with a licensed Marijuana Establishment to transport that Licensee's Marijuana Products to other licensed Marijuana Establishments.
4. The originating and receiving licensed Marijuana Establishments shall ensure that all transported Marijuana Products are linked to the Seed-to-sale SOR. For the purposes of tracking, seeds and Clones shall be properly tracked and labeled in a form and manner determined by the Commission.
5. Any Marijuana Product that is undeliverable or is refused by the destination Marijuana Establishment shall be transported back to the originating establishment.
6. All vehicles transporting Marijuana Products shall be staffed with a minimum of two Marijuana Establishment Agents. At least one agent shall always remain with the vehicle when the vehicle contains Marijuana or Marijuana Products.
7. Prior to leaving a Marijuana Establishment for the purpose of transporting Marijuana Products, the originating Marijuana Establishment shall weigh, inventory, and account for, on video, all Marijuana Products to be transported.
8. Within eight hours after arrival at the destination Marijuana Establishment, the destination Marijuana Establishment shall reweigh, re-inventory, and account for, on video, all Marijuana Products transported.

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9. When videotaping the weighing, inventorying, and accounting of Marijuana Products before transportation or after receipt, the video shall show each product being weighed, the weight, and the manifest.

10. Marijuana Products shall be packaged in sealed, labeled, and tamper or child-resistant packaging prior to and during transportation.

11. In the case of an emergency stop during the transportation of Marijuana Products, a log shall be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. Licensees shall comply with applicable requirements of 935 CMR 500.110(9).

12. A Marijuana Establishment or a Marijuana Transporter transporting Marijuana Products shall ensure that all transportation times and routes are randomized.

13. A Marijuana Establishment or a Marijuana Transporter transporting Marijuana Products shall ensure that all transport routes remain within the Commonwealth.

14. All vehicles and transportation equipment used in the transportation of Marijuana Products or Edibles requiring temperature control for safety shall be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Marijuana Products or Edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

15. All vehicles shall be equipped with a video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:

- a. The ability to produce a clear color still photo whether live or recorded; and
- b. A date and time stamp embedded in all recordings which shall always be synchronized and set correctly and may not significantly obscure the picture.

(b) Reporting Requirements.

1. Marijuana Establishment Agents shall document and report any unusual discrepancy in weight or inventory to the Commission and Law Enforcement Authorities not more than 24 hours of the discovery of such a discrepancy.

2. Marijuana Establishment Agents shall report to the Commission and Law Enforcement Authorities any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.

(c) Vehicles.

1. A vehicle used for transporting Marijuana Products shall be:

- a. Owned or leased by the Marijuana Establishment or the Marijuana Transporter;
- b. Properly registered, inspected, and insured in the Commonwealth (documentation of such status shall be maintained as records of the Marijuana Establishment or the Marijuana Transporter, and shall be made available to the Commission on request);
- c. Equipped with an alarm system approved by the Commission; and
- d. Equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of Marijuana Products.

2. Marijuana Products may not be visible from outside the vehicle.

3. Any vehicle used to transport or deliver Marijuana or Marijuana Products shall comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.

4. When transporting Marijuana Products, no other products may be transported or stored in the same vehicle.

5. No firearms may be located within the vehicle or on a Marijuana Establishment Agent.

(d) Storage Requirements.

1. Marijuana Products shall be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana Products.

2. The storage compartment shall be sufficiently secure that it cannot be easily removed.

3. If a Marijuana Establishment, pursuant to a Marijuana Transporter License, or a Marijuana Transporter is transporting Marijuana Products for more than one Marijuana Establishment at a time, the Marijuana Products for each Marijuana Establishment shall be kept in a separate locked storage compartment during transportation and separate manifests shall be maintained for each Marijuana Establishment.

4. If a Marijuana Establishment is transporting Marijuana Products to multiple other Marijuana Establishments, it may seek the Commission's permission to adopt reasonable alternative safeguards.

(e) Communications.

1. Any vehicle used to transport Marijuana Products shall contain a global positioning system (GPS) monitoring device that is:
  - a. Not a mobile device that is easily removable;
  - b. Attached to the vehicle at all times that the vehicle contains marijuana products;
  - c. Monitored by the Marijuana Establishment or Marijuana Transporter during transport of Marijuana Products; and
  - d. Inspected by the commission prior to initial transportation of Marijuana Products, and after any alteration to the locked storage compartment.
2. Each Marijuana Establishment Agent transporting Marijuana Products shall always have access to a secure form of communication with personnel at the originating location when the vehicle contains Marijuana and Marijuana Products.
3. Secure types of communication include, but are not limited to:
  - a. Two-way digital or analog radio (UHF or VHF);
  - b. Cellular phone; or
  - c. Satellite phone.
4. When choosing a type of secure communications, the following shall be taken into consideration:
  - a. Cellular signal coverage;
  - b. Transportation area;
  - c. Base capabilities;
  - d. Antenna coverage; and
  - e. Frequency of transportation.
5. Prior to, and immediately after leaving the originating location, the Marijuana Establishment Agents shall use the secure form of communication to contact the originating location to test communications and GPS operability.
6. If communications or the GPS system fail while on route, the Marijuana Establishment Agents transporting Marijuana Products shall return to the originating location until the communication system or GPS system is operational.
7. The Marijuana Establishment Agents transporting Marijuana Products shall contact the originating location when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.
8. The originating location shall have a Marijuana Establishment Agent assigned to monitoring the GPS unit and secure form of communication, who shall log all official communications with Marijuana Establishment Agents transporting Marijuana Products.

(f) Manifests.

1. A manifest shall be filled out in triplicate, with the original manifest remaining with the originating Marijuana Establishment, a second copy provided to the destination Marijuana Establishment on arrival, and a copy to be kept with the licensed Marijuana Establishment Agent during transportation and returned to the Marijuana Establishment or Marijuana Transporter on completion of the transportation.
2. Prior to transport, the manifest shall be securely transmitted to the destination Marijuana Establishment by facsimile or email.
3. On arrival at the destination Marijuana Establishment, a Marijuana Establishment Agent at the destination Marijuana Establishment shall compare the manifest produced by the agents who transported the Marijuana Products to the copy transmitted by facsimile or email. This manifest shall, at a minimum, include:
  - a. The originating Marijuana Establishment name, address, and registration number;
  - b. The names and registration numbers of the Marijuana Establishment Agents who transported the Marijuana Products;
  - c. The name and registration number of the Marijuana Establishment Agent who prepared the manifest;
  - d. The destination Marijuana Establishment name, address, and registration number;
  - e. A description of the Marijuana Products being transported, including the weight and form or type of product;
  - f. The mileage of the transporting vehicle at departure from originating Marijuana Establishment and mileage on arrival at destination Marijuana Establishment, as well as mileage on return to originating Marijuana Establishment;
  - g. The date and time of departure from originating Marijuana Establishment and arrival at destination Marijuana Establishment for each transportation;
  - h. A signature line for the Marijuana Establishment Agent who receives the Marijuana Products;
  - i. The weight and inventory before departure and on receipt;

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- j. The date and time that the transported products were reweighed and re-inventoried;
  - k. The name of the Marijuana Establishment Agent at the destination Marijuana Establishment who reweighed and re-inventoried products; and
  - l. The vehicle make, model, and license plate number.
4. The manifest shall be maintained within the vehicle during the entire transportation process, until the delivery is completed.
5. A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.
- (g) Requirements for Agents.
- 1. Each employee or agent transporting or otherwise handling Marijuana Products for a Marijuana Transporter shall be registered as a Marijuana Establishment Agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the Marijuana Establishment Agent will operate for the Marijuana Transporter prior to transporting or otherwise handling Marijuana Products.
  - 2. A Marijuana Establishment Agent shall carry his or her Agent Registration Card at all times when transporting Marijuana Products and shall produce his or her Agent Registration Card to the Commission or Law Enforcement Authorities on request.
- (h) Marijuana Transporters shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.
- (i) A CMO can transport adult use and medical use Marijuana and Marijuana Products if it is appropriately licensed to do so. Where a CMO is transporting both adult use and medical use Marijuana, MIPs and Marijuana Products, the CMO shall comply with the more restrictive security provisions.
- (14) Access to the Commission, Emergency Responders and Law Enforcement.
- (a) The following individuals shall have access to a Marijuana Establishment or Marijuana Establishment transportation vehicle:
    - 1. Representatives of the Commission in the course of responsibilities authorized by St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000;
    - 2. Representatives of other state agencies of the Commonwealth; and
    - 3. Emergency responders in the course of responding to an emergency.
  - (b) 935 CMR 500.000 shall not be construed to prohibit access by authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.
- (15) Energy Efficiency and Conservation. A Marijuana Establishment shall demonstrate consideration of the following factors as part of its operating plan and application for licensure:
- (a) Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;
  - (b) Consideration of opportunities for renewable energy generation including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
  - (c) Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and
  - (d) Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.
- (16) Bond.
- (a) Prior to commencing operations, a Marijuana Establishment shall provide proof of having obtained a surety bond in an amount equal to its licensure fee payable to the Marijuana Regulation Fund to ensure payment of the cost incurred for:
    - 1. The destruction of Cannabis goods necessitated by a violation of M.G.L. c. 94G or 935 CMR 500.000;
    - 2. The costs and compensation of a Court Appointee;
    - 3. The cessation of operation of the Marijuana Establishment; or
    - 4. Such other uses that the Commission may authorize to ensure public health, safety and welfare.
  - (b) All bonds required under 935 CMR 500.000 shall be issued by a corporate surety licensed to transact surety business in the Commonwealth.
  - (c) If the Marijuana Establishment is unable to secure a surety bond, as required by 935 CMR 500.105(16)(a), it may place in escrow a sum of no less than \$5,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.

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(d) The escrow account required pursuant to 935 CMR 500.105(16)(c) shall be replenished within ten business days of any expenditure required under 935 CMR 500.105, unless the Marijuana Establishment has ceased operations. Documentation of the replenishment shall be promptly sent to the Commission.

### (17) Social Equity Program.

(a) There shall be a Social Equity Program established by the Commission to provide training and technical assistance to eligible applicants and Licensees which may include, but may not be limited to:

1. Management, recruitment and employee trainings;
2. Accounting and sales forecasting;
3. Tax prediction and compliance;
4. Legal compliance;
5. Business plan creation and operational development;
6. Marijuana industry best practices; and
7. Assistance with identifying or raising funds or capital.

(b) Eligibility for the Social Equity Program shall be met if applicants or Licensees satisfy one or more of the following criteria:

1. Income does not exceed 400% of Area Median Income and Residency in an Area of Disproportionate Impact, as defined by the Commission, for at least five of the preceding ten years, as established by:
  - a. A Massachusetts driver's record or Massachusetts ID card record;
  - b. A signed lease agreement that includes the subject's name;
  - c. Residential property deed that includes the subject's name;
  - d. School records;
  - e. Housing authority records;
  - f. Banking records;
  - g. Utility bills, which identifies energy and water use; or
  - h. Dated notices or correspondence from a local or state government entity that includes the subject's name.
2. Residency in Massachusetts for at least the preceding 12 months and a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions; or
3. Residency in Massachusetts for at least the preceding 12 months and proof that the individual was either married to or the child of an individual convicted or continuance without a finding for a M.G.L. c. 94C offense or an equivalent conviction in Other Jurisdictions.
4. Any individual listed as an Owner on the original certification of an Economic Empowerment Priority Applicant who satisfies one or more the following criteria:
  - a. Lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission;
  - b. Experience in one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;
  - c. Black, African American, Hispanic or Latino descent; or
  - d. Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in Areas of Disproportionate Impact.
5. The Commission may, in consideration of new information and data, broaden the categories of eligibility for the Social Equity Program by a vote of the Commission.

(c) The Social Equity Program is not a licensing program. Completion of the Social Equity Program will not result in, or guarantee participants' receipt of a License.

### 500.170: Municipal Requirements

(1) Marijuana Establishments and Marijuana Establishment Agents shall comply with all local rules, regulations, ordinances, and bylaws.

(2) Nothing in 935 CMR 500.000 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 935 CMR 500.000.

### 500.180: Host Community Agreement Requirements for License Applicants, Marijuana Establishments, and Host Communities

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- (1) This section is governed by M.G.L. c. 94G § 3 (d)(1)-(5), as amended by St. 2022, c. 180 which went into effect on November 9, 2022. Pursuant to M.G.L. c. 94G § 4(a), the Commission is authorized to review, regulate, enforce, and approve HCAs and to develop a Model Host Community Agreement.
- (2) General Requirements for Host Community Agreements. The Commission shall review and approve each HCA as part of a completed license application and at each license renewal. The parties to an HCA relative to an application for licensure are a License Applicant and a Host Community. The parties to an HCA relative to an application for renewal of licensure are a Host Community and a Marijuana Establishment.
  - (a) A License Applicant seeking a new license to operate a Marijuana Establishment or MTC shall negotiate and execute a compliant HCA with a Host Community, unless a compliant HCA Waiver has been submitted pursuant to 935 CMR 500.180(5). A compliant HCA or compliant HCA Waiver must be submitted in order for a license application to be deemed complete pursuant to 935 CMR 500.102.
  - (b) A Marijuana Establishment seeking renewal of a license to continue to operate in a Host Community shall have an HCA that complies with 935 CMR 500.180, unless a compliant HCA Waiver has been submitted pursuant to 935 CMR 500.180(5).
  - (c) Each of the parties shall ensure that HCAs satisfy the following minimum acceptable requirements:
    1. The parties shall ensure that references in an HCA to a License Applicant or Marijuana Establishment are consistent with both the business entity name certified and recorded with the Secretary of the Commonwealth of Massachusetts and the business entity name stated either in a License Applicant's license application or on a Marijuana Establishment's license record as maintained by the Commission.
    2. The parties shall ensure that HCAs set forth all of a Host Community's conditions for allowing a Marijuana Establishment or a License Applicant to operate in the community. No Host Community may impose an unreasonable condition or a term that is Unreasonably Impracticable in an HCA. A condition may be presumed reasonable if:
      - a. The condition is required under a Host Community's local rules, regulations, ordinances, or bylaws;
      - b. The condition has been deemed necessary to promote public safety by the chief law enforcement authority in a Host Community;
      - c. The condition has been deemed necessary to promote public health by the chief public health authority in a Host Community;
      - d. The condition is a local requirement customarily imposed by a Host Community on other, non-cannabis businesses operating in the community;
      - e. The condition is required by law;
      - f. The condition does not conflict with other laws; or
      - g. The condition is otherwise deemed reasonable by the Commission based on particular circumstances presented by an HCA or contracting parties.
    3. The parties shall ensure that HCAs include a statement of all stipulated responsibilities between a Host Community and a License Applicant or between a Host Community and a Marijuana Establishment including, but not limited to, the following:
      - a. A provision requiring a Host Community to annually transmit its invoice of claimed impact fees to a Marijuana Establishment within one month of the anniversary of the date a Marijuana Establishment received final licensure;
      - b. A provision explicitly identifying any generally occurring fees to be charged by a Host Community. Generally occurring fees are customarily imposed on other non-cannabis businesses operating in a Host Community and shall not be considered a CIF (e.g., routine water, property tax, sewer, trash pickup etc.).
    4. The parties shall ensure that HCAs include the following information:
      - a. The specific Marijuana Establishment license operations permitted under the terms of the HCA;
      - b. The name, signature, and title of the individual(s) authorized to enter into HCAs on behalf of a Host Community as a contracting authority;
      - c. The name, signature, and title of the individual(s) authorized to enter into HCAs on behalf of a License Applicant or a Marijuana Establishment as an authorized representative;



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- d. The date(s) of execution by both parties;
  - e. The effective date of an HCA; and
  - f. The duration of an HCA.
5. The parties shall ensure that HCAs provide clear, specific terms regarding a Host Community's assessment of a CIF if applicable, including, but not limited to, a provision requiring a Host Community to transmit its invoice of claimed impact fees to a Marijuana Establishment within one month of the anniversary of a Marijuana Establishment's final license date.
- (d) The parties may include a clause in an HCA whereby the parties voluntarily agree to bring HCA disputes before a private mediator retained by the parties. Neither party may unilaterally compel private mediation.
  - (e) Approval of HCAs may be conditioned on a Host Community being in good compliance standing with the Commission relative to any HCA to which the Host Community is a contracting party.
  - (f) The Commission may deem a provision of an HCA invalid, and therefore unenforceable, based on a finding that the provision violates M.G.L. c. 94G, 935 CMR 500.000 or 935 CMR 501.000. The Commission may also declare an HCA or a provision of an HCA voidable upon deeming the HCA as a contract of adhesion.
  - (g) The Commission may decline to approve an HCA on the basis of any other ground that serves the purposes of M.G.L. c. 94G, 935 CMR 500.000, or 935 CMR 501.000.
  - (h) A Marijuana Establishment that seeks a name change or location change pursuant to 935 CMR 500.104(1) must submit, respectively, a new or updated HCA in a form and manner determined by the Commission. Upon submission of a Change of Ownership request for the transfer of a license, an applicant may propose a name change with the application submission. If elected, an applicant must submit an amended HCA.
  - (i) Prohibitions.
    1. No License Applicant, Marijuana Establishment, or Host Community shall enter into an HCA that includes a promise to make a future monetary payment, in-kind contribution, or charitable contribution. A License Applicant or Marijuana Establishment may voluntarily provide organizations with monetary payments, in-kind contributions and charitable contributions after executing an HCA, as long as a License Applicant or Marijuana Establishment's actions are not performed because of a condition imposed by a Host Community, whether explicitly or implicitly.
    2. A contractual financial obligation, other than a CIF, that is explicitly or implicitly a factor considered in or included as a condition of an HCA is unenforceable, subject to the following exceptions:
      - a. References in an HCA to a Marijuana Establishment's obligations to pay any fees associated with sales tax, excise tax on Marijuana and Marijuana Products, optional local tax, or as otherwise provided in M.G.L. c. 94G, M.G.L. c. 64H, and M.G.L. c. 64N.
      - b. References in an HCA to a Marijuana Establishment's obligations to pay a Host Community for generally occurring fees associated with operating in a Host Community (e.g., water, sewer, property tax, etc.).
    3. No Host Community may mandate or otherwise require that the CIF be a certain percentage of a Marijuana Establishment's total or gross sales as a term or condition of an HCA.
    4. A Host Community shall not demand a CIF exceeding 3 percent of the gross sales of a Marijuana Establishment as a term or condition of an HCA.
    5. No License Applicant, Marijuana Establishment, or Host Community will use Inducements to negotiate or execute an HCA.
  - (j) The following terms, conditions, or clauses are prohibited in an HCA:
    1. A provision that discourages any party from bringing a civil cause of action or other legal challenge relative to an HCA or to an individual term or provision of an HCA;
    2. A provision that requires a License Applicant or Marijuana Establishment to make upfront payments as a condition for operating in the Host Community;
    3. A provision that affords a Host Community sole and absolute discretion on how a community will spend a CIF;
    4. A provision waiving a Marijuana Establishment's ability to dispute whether impact fees claimed by a Host Community are Reasonably Related and properly due and payable as a CIF;

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5. A provision that categorically deems a Host Community's claimed impact fees to be reasonably related or that otherwise excuse a Host Community from calculating impact fees based on the actual operations of a Marijuana Establishment;
6. A provision that imposes legal, overtime, or administrative costs or any costs other than a CIF on a Marijuana Establishment with the exception of a Marijuana Establishment's tax obligations or its responsibility for paying routine, generally occurring municipal fees;
7. A provision that obligates a Marijuana Establishment to set aside money in an escrow, bond, or other similar account for a Host Community's use or purposes;
8. A provision that requires a Marijuana Establishment to make any additional payments or obligations including but not limited to monetary payments, in-kind contributions, providing staffing, advance payments, or charitable contributions by a Marijuana Establishment to a Host Community or any other organization.

(3) Review and Certification of Host Community Agreements. The Commission, through its Executive Director or the director's delegee, shall review an HCA submitted by a License Applicant or a Marijuana Establishment and make a determination certifying whether the HCA, in whole or in part, satisfies Commission requirements.

(a) The Commission shall complete its review of an HCA within 90 days of receiving an HCA from a Marijuana Establishment. The Commission may request additional information or send a determination notice identifying deficiencies in an HCA. Submission of an amended HCA resets the 90-day period of Commission review.

(b) Review of HCAs submitted by License Applicants

1. All applications for initial licensure submitted on or after May 1, 2024, must include an HCA that complies with 935 CMR 500.000 *et seq.* or a compliant HCA Waiver.
2. The Commission may request additional information from a License Applicant or a Host Community in connection with its review.
3. The Commission shall send a notice of its HCA determination to both a License Applicant and a Host Community within 90 days of receipt of an HCA.
4. If the Commission determines that a License Applicant's HCA does not comply with 935 CMR 500.180, then the HCA determination notice shall state the following:
  - a. The factual basis for the Commission's finding of noncompliance, including identification of the noncompliant term(s), condition(s), or provision(s) of the HCA, if applicable;
  - b. The parties' option to correct the noncompliance and submit an amended HCA;
  - c. The parties' option to submit an HCA Waiver that complies with 935 CMR 500.180(5); and
  - d. Either party's option to discontinue relations as Host Community and License Applicant.
5. Failure to submit a compliant HCA or a compliant HCA Waiver with an application for licensure may result in an application remaining incomplete pursuant to 935 CMR 500.102.

(c) Review of HCAs submitted by a Marijuana Establishment

1. All renewal applications submitted on or after May 1, 2024, must include an HCA that complies with 935 CMR 500.000 *et seq.* or a compliant HCA Waiver.
2. The Commission may request additional information from a Marijuana Establishment or a Host Community in connection with its review.
3. The Commission shall send a notice of its HCA determination to both a Marijuana Establishment and a Host Community within 90 days of receipt of the HCA. The determination notice shall identify whether the HCA, in whole or in part, complies with 935 CMR 500.180.
4. If the Commission determines that a Marijuana Establishment's HCA does not comply with 935 CMR 500.180, then the HCA determination notice shall provide the following:
  - a. The factual basis for the Commission's finding of noncompliance, including identification of the noncompliant term(s), condition(s), or provision(s) of the HCA, if applicable;
  - b. The parties' option to correct the noncompliance and submit an amended HCA;
  - c. The parties' option to submit an HCA Waiver that complies with 935 CMR

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- 500.180(5);
- d. A Host Community's option to discontinue relations with a Marijuana Establishment. A municipality shall notify a Marijuana Establishment if it no longer intends to continue as a Host Community for a Marijuana Establishment. On receipt of a notice of discontinuance as a Host Community, the Marijuana Establishment shall notify the Commission; and
  - e. A Marijuana Establishment's option to request equitable relief from the Commission in the event that a Host Community declines to continue as a Host Community;
5. If a Host Community discontinues relations with a Marijuana Establishment, then a Marijuana Establishment may submit a request for equitable relief to the Commission.
- a. A Marijuana Establishment's request for equitable relief must identify facts, information, and any documentation to support why a Marijuana Establishment should be considered for equitable remedies. A Marijuana Establishment shall ensure that the request for equitable relief includes a Host Community's notice under 935 CMR 500.180(3)(c)4.d.
  - b. The Commission will conduct a paper review of the petition and make a recommendation to the Commission.
  - c. The Commission may exercise its discretion whether to grant one or more of the following equitable remedies to a Marijuana Establishment: (i) Extension of a License expiration date without incurring additional prorated fees; (ii) Waiver of a Change of Location fee; (iii) Other equitable relief as determined by the Commission.
  - d. If the Commission grants or denies equitable relief to a Marijuana Establishment, the agency will provide notice of its decision to a Marijuana Establishment and a Host Community. A Host Community or a Marijuana Establishment may seek relief from a court of competent jurisdiction.
6. Failure to submit a compliant HCA or compliant HCA Waiver may constitute grounds for denial of a renewal application.
7. Any action subsequently taken to deny a Marijuana Establishment's renewal application due to failure to produce a compliant HCA or a compliant HCA Waiver shall afford Marijuana Establishments a right to hearing pursuant to 935 CMR 500.500.
- a. If a Marijuana Establishment elects a hearing pursuant to 935 CMR 500.500, the administrative proceeding must be conducted pursuant to 801 CMR 1.01, Formal Rules of Adjudicatory Practice and Procedure.
  - b. A Host Community may seek intervention as a party to the hearing.
- (d) Complaints alleging Noncompliance with 935 CMR 500.180
1. Consistent with its power to enforce HCAs, the Commission may, at its discretion, investigate any complaint alleging noncompliance with the requirements in this section and take enforcement action as provided in 935 CMR 500.000.
  2. An interested person may file a complaint with the Commission alleging noncompliance with an HCA requirement under 935 CMR 500.180. Nothing in this subdivision shall be construed to prevent a Marijuana Establishment or a Host Community from bringing a private breach of contract action in a court of competent jurisdiction regarding an alleged breach of specific promises mutually agreed to in the parties' HCA.
  3. If the Commission substantiates an allegation of noncompliance with HCA regulatory requirements, then the Commission may take administrative or enforcement action against a Licensee or a Host Community including sending a notice of deficiency, requesting additional information, or otherwise taking action as provided under 935 CMR 500.000.
  4. Failure by a Host Community to correct the noncompliant conduct may result in one or more of the following:
    - a. Issuance of sanctions pursuant to 935 CMR 500.360;
    - b. Loss of a Host Community's good compliance standing for purposes of 935 CMR 500.180(2)(e);
    - c. Publication of a Host Community lack of good compliance standing in a form and manner determined by the Commission; or
    - d. Abstaining from consideration of any new license applications affiliated with a Host Community until a Host Community's good compliance standing is restored.

(4) Community Impact Fees

- (a) General Requirements. Pursuant to M.G.L. c. 94G, § 4(a<sup>1/2</sup>), the Commission is charged with establishing criteria for reviewing, certifying, and approving CIFs.
1. To qualify as a CIF, an impact fee claimed by a Host Community must be Reasonably Related.
  2. On certification by the Commission, a CIF becomes properly due and payable unless disputed by a Marijuana Establishment consistent with 935 CMR 500.180(4)(c)4.a.
  3. A Host Community may assess a CIF as a condition of allowing a License Applicant or a Marijuana Establishment to operate or continue to operate in its community. A Host Community may also opt not to assess a CIF.
  4. A Host Community shall ensure that the initial invoice period of claimed impact fees covers a one-year period that starts from the date the Commission grants a Marijuana Establishment a final license. A Host Community shall further ensure that all subsequent, one-year invoice periods are consistent with the anniversary of a Marijuana Establishment's final license date. The Commission will not certify any impact fees attributable to dates outside of the applicable invoice period.
  5. A Host Community seeking to assess a CIF shall transmit an itemized invoice to a Marijuana Establishment in a form and manner determined by the Commission documenting claimed impact fees arising from the preceding year of a Marijuana Establishment's operations.
    - a. Sunshine Requirement: A Host Community shall ensure that impact fee invoices include a specific description of how the claimed impact fees were spent, including each line item for each good or service charged stating its cost, purpose, and relation to a Marijuana Establishment's operations.
    - b. A Host Community shall transmit its impact fee invoice to a Marijuana Establishment no later than one month after the anniversary of the date the Marijuana Establishment received a final license from the Commission. A Host Community's failure to transmit the impact fee invoice to a Marijuana Establishment within the prescribed time shall result in a forfeiture of any CIF for the applicable year of operations.
    - c. A Host Community shall ensure that the impact fee invoice is restricted to the license number(s) operating from the licensed Premises alleged to have impacted the community. For CMOs, a Host Community shall transmit an impact fee invoice to a Marijuana Establishment and an MTC.
  6. Within 30 calendar days of receiving a Host Community's invoice of claimed impact fees, a Marijuana Establishment shall submit the invoice and any supporting documentation, if applicable, to the Commission in a form and manner determined by the Commission.
  7. A Marijuana Establishment that has agreed to pay a CIF under its HCA shall annually pay any undisputed CIF no later than eight months from the date of receiving a Host Community's invoice of claimed impact fees. This subdivision shall not be construed to require a Marijuana Establishment to pay a CIF if a Marijuana Establishment's payment obligation is the subject of a nonfrivolous legal dispute either before the Commission or a court of competent jurisdiction.
- (b) Prohibited Practices.
1. A Host Community shall not attempt to collect impact fees relating to any operations occurring prior to the date a Marijuana Establishment is granted a final license by the Commission.
  2. A Host Community shall not attempt to collect impact fees from any Marijuana Establishment that has held a final license for more than nine years.
  3. In circumstances where the licensed Premises is the site of multiple final licenses, no Host Community may amplify its assessment of claimed impact fee(s) by assigning the same impact fee(s) to each final license operating from the licensed Premises without regard to the distinct operations of each licensed entity.
  4. No Host Community may include additional payments or obligations in its invoice of claimed impact fees, including but not limited to monetary payments, in-kind contributions and charitable contributions by a Marijuana Establishment to a Host Community or any other organization.
  5. A Host Community shall not include any legal costs incurred by a Host

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Community to defend against a lawsuit brought by a Marijuana Establishment in its invoice of claimed impact fees.

6. No Host Community may modify the effective date of a preexisting CIF for any final license that becomes subject to an ownership or control change under 935 CMR 500.104(1).

(c) Commission Review and Certification of CIFs. The Commission, through its Executive Director or Executive Director's delegee(s) shall review a Host Community's invoice of claimed impact fees and make a determination certifying, in whole or in part, the CIF that may be assessed for the preceding year of a Marijuana Establishment's operations based on a finding that an impact fee(s) is Reasonably Related to a Marijuana Establishment's operations.

1. A Marijuana Establishment shall provide verification of its Gross Annual Sales, including wholesale revenue generated by Marijuana Cultivators and Marijuana Product Manufacturers, to the Commission with its transmission of a Host Community's invoice of claimed impact fees.
  - a. A Marijuana Establishment shall submit a summary of all sales of Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods for that license to consumers and other Licensees, as applicable.
  - b. If product was wholesaled or otherwise sold or transferred to other Licensees at no cost or reduced cost, a Marijuana Establishment shall apply the average cost per gram or milligram to the amount sold or transferred to establish and report the fair market value of the product, and include that amount in its summary submission.
2. The Commission may determine the Gross Annual Sales of a Marijuana Establishment using the following factors:
  - a. Consumer Sales as represented by a Marijuana Establishment;
  - b. Consumer Sales as represented by the Commission Seed-to-Sale System of Record;
  - c. Fair Market Value of wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods;
  - d. Any wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods that has been refunded or is otherwise the subject of a voided sale;
  - e. Value of services rendered, wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods as represented by the Commission Seed-to-Sale System of Record; and
  - f. Other factors as determined necessary by the Commission to calculate the Gross Annual Sales by the licensee in the absence of available information as listed in this subdivision.
3. The Commission may make a final determination on Gross Annual Sales relying on the factors in 935 CMR 500.180(4)(c)2, and any additional information gathered. The Gross Annual Sales determined by the Commission, pursuant to 935 CMR 500.180(4)(c)2, shall be used for purposes of the CIF in circumstances where product was wholesaled or otherwise sold or transferred to other Licensees at no cost or reduced cost, and shall not be used for any other purposes related to other obligations, including tax filings, for a Marijuana Establishment.
4. The Commission shall provide notice of its CIF determination to a Marijuana Establishment and a Host Community. The Commission's notice will provide a Marijuana Establishment with the following options:
  - a. A Marijuana Establishment may request an administrative hearing before an independent Hearing Officer of the Commission pursuant to 935 CMR 500.500 to challenge the findings of fact and conclusions of law. Any administrative proceeding elected by a Marijuana Establishment must be conducted pursuant to 801 CMR 1.01, Formal Rules of Adjudicatory Practice and Procedure. The Host Community may seek intervention as a party to the hearing; or
  - b. A Licensee may seek court intervention to independently review a Host Community's impact fees by bringing a breach of contract action against a Host Community in a court of competent jurisdiction.
5. The parties may elect to bring a dispute between the parties before a private

mediator retained by the parties at any time if such mediation is a term of the HCA or is voluntarily elected by the parties.

6. After a CIF dispute has resolved, a Marijuana Establishment must provide proof of payment of the certified CIF with its renewal application.

(5) Waiver of Host Community Agreements

- (a) A Host Community may waive the regulatory requirement to have a compliant HCA by submitting an HCA Waiver to the Commission that complies with this subsection.
- (b) An HCA Waiver constitutes a total relinquishment of the requirement that an applicant or Marijuana Establishment enter into an HCA with a Host Community. No party to an HCA may use an HCA Waiver to waive individual provisions of an HCA.
- (c) An HCA Waiver may be submitted relative to an application for licensure or an application for renewal of licensure. A Host Community and an applicant or Marijuana Establishment may also submit an HCA Waiver after both parties have executed an HCA.
- (d) Acceptance of an HCA Waiver is limited to the specific application or license number(s) stated in the HCA Waiver request.
- (e) The Commission shall determine whether an HCA Waiver complies with this subsection.
- (f) An HCA Waiver that sets an expiration date or any conditions is deemed noncompliant.
- (g) An HCA Waiver determined to be the result of an Inducement is deemed noncompliant.
- (h) If a Host Community elects to submit an HCA Waiver, a Host Community's submission shall be in a form and manner determined by the Commission and include, at minimum, the following information:
  - 1. Identification of the specific application or license number intended to be exempt from the requirement to have a compliant HCA;
  - 2. Identification of a License Applicant or Marijuana Establishment in a manner consistent with both the business entity name certified and recorded with the Secretary of the Commonwealth of Massachusetts and the business entity name stated either in a License Applicant's license application or on a Marijuana Establishment's license record as maintained by the Commission.
  - 3. Printed name and signature of the individual(s) authorized to represent and act on behalf of a Host Community;
  - 4. Printed name and signature of the individual(s) authorized to represent and act on behalf of an applicant or Marijuana Establishment;
  - 5. The date of each parties' signature; and
  - 6. An attestation that the HCA Waiver was mutually agreed upon by both parties and executed in good faith.
- (i) An HCA Waiver that is executed and recorded with the Commission remains in full force and effect until such time as it is rescinded. An HCA Waiver may only be rescinded on Commission approval of an HCA subsequently executed and submitted by the parties.
- (j) An HCA waiver is not subject to review under the criteria in 935 CMR 500.850 regarding general waivers.

500.181 Minimum Acceptable Equity Standards Governing Municipalities and Host Communities

- (1) This section is governed by M.G.L. c. 94G §§ 3 and 4, as amended by St. 2022, c. 180. Pursuant to M.G.L. c. 94G § 3, the Commission must establish minimum acceptable standards for Host Communities to promote and encourage full participation in the regulated Marijuana industry by people from communities that were disproportionately harmed by Marijuana prohibition and enforcement and to positively impact those communities.
- (2) M.G.L. c. 94G § 4(a)(xxxii)-(xxxiii) empowers the Commission to establish procedures for municipalities to promote and encourage full participation in the regulated Marijuana industry during negotiations of HCAs with Social Equity Businesses and to develop minimum acceptable standards governing HCA negotiations with Social Equity Businesses. The Commission is further authorized to develop best practices for HCA negotiations between municipalities and License Applicants that

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have been designated as Social Equity Program Participants or Economic Empowerment Priority Applicants.

(3) Equity Standards for Host Communities to Promote and Encourage Full Participation in the regulated Marijuana industry.

- a. Municipalities are presumed to have met the Commission's minimum acceptable equity standards for promoting and encouraging full participation in the regulated Marijuana industry by taking one of the following actions:
  1. Adopting an ordinance or bylaw to exclusively license Social Equity Businesses for an extended period of time;
  2. Creating a Local Approval Process for equity applicants that is administered on a 1:1 basis, where a General Applicant may be approved only after a Social Equity Business has completed the Local Approval Process. Host Communities may choose to administer a 1:1 Local Approval Process until such time as 50% of the Licensees operating in the Host Community are Social Equity Businesses.
- b. Notwithstanding 935 CMR 500.181(3)(a), a Host Community shall adopt, but not be limited to, the following transparent practices to promote and encourage full equity participation:
  1. A Host Community shall publicize certain information in a conspicuous location at its offices and on its website which shall, at minimum, include:
    - a. All required steps of a Host Community's Local Approval Process, including, but not limited to, all associated fees, deadlines, and meeting schedules for local bodies involved in the Local Approval Process;
    - b. Identification of key individuals involved in a Host Community's Local Approval Process, including, but not limited to, their name, title, business address, and business contact information such as email address or phone number;
    - c. A list of all documentation required by a Host Community's Local Approval Process, in downloadable form and paper form;
    - d. Identification of application criteria for local approval to operate a Marijuana Establishment and scoring methodologies relied on by a Host Community;
    - e. General scoring information for all applicants and a Host Community's scoring of each individual applicant;
    - f. A Host Community's explanation, in narrative form, of its reasoning for the approval or denial of an application; and
    - g. Any other information required by the Commission.
  2. A Host Community shall develop a plan to promote and encourage full participation in the regulated cannabis industry by individuals from communities disproportionately harmed by cannabis prohibition and enforcement and to positively impact those communities and shall publicize its equity plan in a conspicuous location at its offices and on its website. A Host Community's equity plan shall:
    - a. Encourage applications from business and individuals that would meet the definition of Social Equity Businesses, Social Equity Program Participants, and Economic Empowerment Priority Applicants as determined by the Commission.; and
    - b. Include goals, programs, and measurements a Host Community will utilize to promote and encourage equity participation.
  3. A Host Community shall publish data regarding its total applicant pool, which shall identify each Social Equity Business and License Applicant that has been designated as a Social Equity Program Participant or Economic Empowerment Priority Applicant, or who have been pre-verified pursuant to 935 CMR 500.101(7), including but not limited to the following: The Commission may require the Host Community to report data to the Commission.
- b. A municipality or Host Community shall adhere to best practices for HCA negotiations with License Applicants that have been designated as Social Equity Program Participants or Economic Empowerment Priority Applicants including, but not limited to, the following:
  1. A Host Community shall develop a standard evaluation form, or use a form developed by the Commission, that scores components of an application. The evaluation form shall include consideration of equity in the overall evaluation score, which must comprise not less than 25 percent of the total evaluation score. This equity component shall include: (i) whether an individual, entity, or License Applicant is pre-verified or verified pursuant to 935 CMR 500.101(7); (ii) whether the License Applicant is a Social Equity Program Participant; (iii) whether the License Applicant is an Economic Empowerment Priority Applicant; (iv) whether a License Applicant or pre-verified individual or entity has a prior Marijuana-related criminal offense or conviction; (v) whether a License Applicant or pre-verified individual or

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entity is part of an Area of Disproportionate Impact, as identified by the Commission; or (vi) a pre-verified individual is, or a majority of a pre-verified entity or License Applicant entity comprises of individuals from Black, African American, Hispanic, Latino, or Native American or indigenous descent.

2. In circumstances where a Host Community imposes a cap on the number of Marijuana Establishments or MTCs that may obtain local approval to operate, if a Host Community later decides to allow additional Marijuana Establishments or MTCs, at least 50 percent of those licenses, but no less than 1 license, above the previously-established cap shall be reserved for Social Equity Businesses, License Applicants, or a pre-verified individual or entity that have been designated as Social Equity Participants or Economic Empowerment Priority Applicants.
  - c. Host Communities must adopt local rules or bylaws to comply with this section on or before May 1, 2024. A Host Community must submit an attestation in a form and manner determined by the Commission affirming that it has adopted local laws to effectuate compliance with this section and identifying the specific laws passed.
  - d. Any interested person may file a complaint with the Commission alleging noncompliance with an equity requirement under 935 CMR 500.181.
    1. If the Commission substantiates an allegation of noncompliance with 935 CMR 500.181, a Host Community shall be fined after first receiving notice and opportunity for corrective action pursuant to 935 CMR 500.310 and 935 CMR 500.320. A Host Community shall be fined in an amount equal to the annual total of CIFs received from all Marijuana Establishments and MTCs operating in the Host Community during the prior calendar year.
      - a. The Commission shall afford a Host Community a right to a hearing pursuant to 935 CMR 500.500.
      - b. All fines collected shall be deposited into the Cannabis Social Equity Trust Fund established in section 14A of chapter 94G.
      - c. The Commission may publish a list of any municipality or Host Community that has been assessed a fine for equity noncompliance.
      - d. Fine assessments pursuant to this section shall take effect no sooner than May 1, 2025.
- (4) Equity Standards for Host Communities during HCA Negotiations with Social Equity Businesses, License Applicants, and individuals and entities pre-verified by the Commission.
- a. A Host Community shall prioritize negotiations of HCAs with equity parties. The equity party in a negotiation of an HCA for an application for licensure is a License Applicant that has been designated as a Social Equity Program Participant, an Economic Priority Applicant, or both. The equity party in a negotiation of an HCA for an application for renewal of licensure is a Social Equity Business. The equity party may also be an individual or entity pre-verified pursuant to 935 CMR 500.101(7).
  - b. A Host Community may waive or reduce fees for an equity party to an HCA negotiation, including, but not limited to CIFs, zoning and occupancy fees.
  - c. Required practices. At minimum, a municipality or Host Community shall take the following actions during HCA negotiations with an equity party to promote and encourage their full participation:
    1. Engage in an ongoing dialogue by providing multiple opportunities for discussion and negotiation of HCA terms including, at minimum, two conferences with an equity party;
    2. Include any attorney, authorized representative, or other advocate, if elected by an equity party, in all negotiation discussions and conferences;
    3. Promote language access by providing a certified interpreter or translator to assist an equity party who is a Non-English speaker during all negotiation discussions and conferences;
    4. Provide reasonable opportunities for an equity party to review a proposed HCA, HCA term or condition outside of a negotiation conference, or to seek review or input by a third party of their choice.
    5. Negotiate the terms of an HCA in good faith, including consideration of flexible terms that may mitigate particular challenges affecting an equity party, such as access to capital, with all terms and clauses conspicuously identified and openly discussed; and
    6. Allow an equity party to propose an amendment to, or seek cancellation of, an HCA within thirty days from the date of execution of the HCA.
  - d. Prohibited practices.
    1. No municipality or Host Community shall negotiate an HCA with an equity party through the use of undue influence, duress, coercion, intimidation, threats, or any strong-arm tactics.



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2. No municipality or Host Community shall threaten loss of an equity party's position in its local application queue or delay to the processing of an equity party's application.
3. No municipality or Host Community shall compel an equity party to sign an HCA in any manner that conflicts with the practices required in 935 CMR 500.181(4)(c).

### (5) Equity Standards for Positively Impacting Communities that were Disproportionately harmed by Marijuana Prohibition and Enforcement

- a. A Host Community shall donate, at minimum, 3% of each CIF it receives from a Licensee to the Cannabis Social Equity Trust Fund.
- b. Licensees may satisfy their positive impact plan requirement, in part, by donating to the Cannabis Social Equity Trust Fund:
  1. A Licensee must have authorization to commence operations to donate to the Cannabis Social Equity Trust Fund as part of their positive impact plan.

### 500.300: Complaints Process

(1) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or Consumers to notify the Commission of complaints regarding Marijuana Establishments, Marijuana Establishment Agents, or Host Communities.

(2) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority.

### 500.301: Inspections and Compliance

(1) Pursuant to M.G.L. c. 94G, §§ 4(a)(xvii) through (xx), the Commission or a Commission Delegee may inspect a Marijuana Establishment and affiliated vehicles at any time without prior notice to determine the Marijuana Establishment's compliance with M.G.L. c. 94G, and 935 CMR 500.000. All areas, activities and records of a Marijuana Establishment and activities and records of Marijuana Establishment Agents are subject to such inspection. Submission of an application by or issuance of a License to a Marijuana Establishment constitutes consent for such inspection.

(2) A Marijuana Establishment shall allow immediate access to the facility on being presented with photo identification documenting the Commission representative's affiliation with the Commission or a Commission Delegee's affiliation with a state agency with lawful jurisdiction over the operations of a Marijuana Establishment.

(3) A Marijuana Establishment or Host Community shall immediately on request make available to the Commission or a Commission Delegee all information that may be relevant to an inspection or investigation of an incident or a complaint.

(4) A Marijuana Establishment or Host Community shall make all reasonable efforts to facilitate the inspection or investigation of an incident or a complaint, including the taking of samples, photographs, video or other evidence or recordings, and complying with demands for examination and inspection in accordance with 935 CMR 500.302.

(5) During an inspection, the Commission or a Commission Delegee may direct a Marijuana Establishment to test Marijuana for contaminants including, but not limited to, mold, mildew, heavy metals, plant-growth regulators, and the presence of Pesticides not approved for use on Marijuana pursuant to 935 CMR 500.120(5).

(6) An inspection or other investigation may be made prior to the issuance of a License or the renewal of a License. Additional inspections may be made whenever the Commission or a Commission Delegee deems it necessary for the enforcement of M.G.L. c. 94G, and 935 CMR 500.000.

(7) The failure to cooperate with an inspection or investigation or otherwise comply with 935 CMR 500.301 may result in administrative or disciplinary action against the Licensee or Host Community.

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### 500.310: Deficiency Statements

After an inspection in which a violation of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 935 CMR 501.000: *Medical Use of Marijuana* is observed or a violation is otherwise determined to have occurred, the Commission shall issue a deficiency statement citing every violation identified, a copy of which shall be left with or sent to the Marijuana Establishment or Host Community.

### 500.360: Fines and Sanctions

The Commission or a Commission Delegee may issue an order to a Licensee or a Host Community to show cause as to why a fine or other financial penalty against a Licensee, Registrant, or Host Community should not be imposed for any acts or omissions determined to be in violation of the state Marijuana laws, including M.G.L. c. 94G, and 935 CMR 500.000.

(1) Notice of Fines or Sanctions. The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee, Registrant, or Host Community and the basis(es) for that action which shall include, but not be limited to, the following information:

- (a) The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License, registration, or HCA;
- (b) The factual basis(es) of the order;
- (c) The alleged violation(s) of law;
- (d) An assessment of an administrative fine of up to \$50,000 per violation, or an order for corrective action fixing a reasonable time for correction of the violation or both; and
- (e) Notice to the Licensee, Registrant, or Host Community that they may request a hearing in accordance with 935 CMR 500.500.

(2) An administrative fine of up to \$50,000 may be assessed for each violation.

- (a) The decision to impose any fine or financial penalty shall identify the factors considered by the Commission or a Commission Delegee in setting the amount.
- (b) Each day during which a violation continues may constitute a separate violation, and each instance and provision of the state Marijuana laws, including M.G.L. c. 94G, and 935 CMR 500.000, that is violated may constitute a separate violation.

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(3) The Commission or a Commission Delegee, in determining the amount of fine or financial penalty to impose may consider greater or lesser amount depending on aggravating or mitigating circumstances including, but not limited to:

(a) Aggravating Circumstances.

1. Duration and severity of violation;
2. Whether the Licensee, Registrant, or Host Community has previously been subject to an administrative or enforcement action including, but not limited to, a notice of deficiency;
3. Whether the Licensee, Registrant, or Host Community knew or had reason to know of the violation including, but not limited to, warning or issuance of a notice of deficiency; and
4. Whether the offense:
  - a. Constitutes grounds for denial of a renewal application or suspension or revocation of licensure;
  - b. Involved multiple Persons or Entities Having Direct or Indirect Control or agents of the Licensee, Registrant, or Host Community;
  - c. Involved any compensating features associated with a valid waiver issued pursuant to 935 CMR 500.850;
  - d. Involved a Person younger than 21 years old or a Registered Qualifying Patient or Caregiver;
  - e. Involved or affected multiple Consumers;
  - f. Involved or exposed the public to risk of diversion; or
  - g. Created a risk to the public health, safety or welfare.

(b) Mitigating Circumstances.

1. Whether the Commission learned of the violation or risk of violation from the Licensee, Registrant, or Host Community prior to investigation;
2. The financial impact of corrective measures, if any, which provide safeguards exceeding the minimum requirements of 935 CMR 500.000. However, financial impact may not include any cost associated with loss of economic opportunity due to noncompliance or costs of corrective action necessary to achieve compliance with minimum requirements of 935 CMR 500.000;
3. The Licensee's, Registrant's, or Host Community's good faith efforts to avoid a violation;
4. The Licensee's, Registrant's, or Host Community's degree of cooperation in the investigation;
5. The Licensee's, Registrant's, or Host Community's willingness to accept responsibility;
6. The Licensee's or Registrant's compliance with the training requirements pursuant to 935 CMR 500.105(2)(b); and
7. The Licensee's or Registrant's status as current or past leader pursuant to the Leadership Ratings Program under 935 CMR 500.040.
8. Other particular mitigating circumstances presented by the Licensee, Registrant, or Host Community.

(4) The fine or financial penalty shall be due and payable within 30 calendar days of the date of one of the following:

- (a) The date of the assessment; or
- (b) If a hearing is requested pursuant to 935 CMR 500.500, the date of the final agency action.

(5) Failure to timely pay the fine or financial penalty may result in further action being taken by the Commission or a Commission Delegee including, but not limited to, suspension or revocation of a License or registration, or loss of a Host Community's good compliance standing with the Commission, as declared and publicized pursuant to the procedures set forth in 935 CMR 500.180(3)(d).

(6) If remaining unpaid at the time of Licensure renewal, the fine or financial penalty shall be added to the fee for renewal of the License. A License may not be renewed without the payment of the renewal fee and if applicable, an unpaid fine or financial penalty.

(7) All fines and financial penalties collected by or on behalf of the Commission, pursuant to 935 CMR 500.360, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund. The failure to cooperate with provisions of 935 CMR 500.360, may result in administrative or enforcement action against the Licensees, Registrants, or Host

Communities.

500.500: Hearings and Appeals of Actions on Licenses

- (1) The Commission has the authority to administer the administrative hearing process under M.G.L. c. 94G, § 4(a)(xxiv) and (g).
- (2) A Licensee or Host Community shall be afforded a hearing on any adverse action taken pursuant to:
  - (a) 935 CMR 500.360;
  - (b) 935 CMR 500.370;
  - (c) 935 CMR 500.450; or
  - (a) Any other notice of the Commission that specifies that the Licensee, Registrant or Host Community has a right to challenge the findings of fact and conclusions of law set forth in the Commission's notice using the process set forth in 935 CMR 500.500.
- (3) Notice(s).
  - (a) Notice of Violation(s) includes a notice issued in accordance with 935 CMR 500.360 and 500.370.
  - (b) Notice of Other Action(s). The Commission or a Commission Delegee shall send written notice of the action including, but not limited to, a denial of a renewal License, taken against a Licensee, Registrant, or Host Community and the basis(es) for that action which shall include, but not be limited to, the following information:
    1. The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the License, registration, or HCA;
    2. The factual basis(es) for that action;
    3. The alleged violation(s) of law, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;
    4. The current restriction(s) on the Licensee's operations or the sale or use of Marijuana or Marijuana Products, if any;
    5. The potential for further disciplinary action(s), sanction(s) or fine(s); and
    6. The Licensee, Registrant, or Host Community's right to a hearing, if any.
  - (c) The Commission or a Commission Delegee may modify, amend or rescind a notice issued under 935 CMR 500.500(3).
- (4) Hearing Request. The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission Delegee including, but not limited to, the request shall be made no later than 30 days after the effective date of the notice. A request for a hearing is filed on the date the request is received by the Commission.
  - (a) A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee, Registrant, or Host Community, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.
  - (b) The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).

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(c) If a timely request for an hearing is made, the Licensee, Registrant, or Host Community may also seek to stay any action until there has been a final agency action pursuant to 935 CMR 500.500(7) or (12); provided, however, that if the Commission issues an order or notice on the basis of information that ongoing operations pose an immediate or serious threat to the public health, safety or welfare, and that operations without restrictions during the pendency of the administrative appeal could reasonably be expected to endanger the health, safety or welfare of the public, there will be no stay.

(d) Nothing in 935 CMR 500.500 shall preclude the Commission or a Commission Delegee from issuing a stay.

(5) Hearing Officer. The Commission shall designate a Hearing Officer or delegate this designation to the Executive Director.

(6) Hearing Officer's Authority to Take Action in the Event of Waiver, Default or Summary Decision.

(a) Waiver. If a Licensee, Registrant, or Host Community fails to request a hearing in a timely manner or otherwise waives their right to a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(b) Default. If a Licensee, Registrant, or Host Community defaults, the Hearing Officer or other Commission Delegee may assume the truth of the allegations set forth in the notice and recommend to the Commission appropriate disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(c) Summary Decision. If there is no genuine issue of fact to be determined by a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(d) For actions without a hearing under 935 CMR 500.500(6)(a) through (c), the Hearing Officer may conduct an evidentiary hearing on the appropriateness of disciplinary action(s), sanction(s) or fine(s).

(7) Commission's Authority to Review, Approve or Reject Informal Dispositions. At any time, the Commission or a Commission Delegee may, in its discretion, review, approve or reject an informal disposition, but only on a showing that the alleged violations have been corrected, and a submission of a written waiver of its right to judicial review.

(8) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 500.500(4) the Hearing Officer shall provide notice and a hearing within a reasonable time after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(a) The hearing notice should comply with M.G.L. c. 30A, § 11(1).

(b) Prior to the commencement of a proceeding, a Hearing Officer may conduct conference(s) and refer or require the parties to participate in settlement negotiations. If the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 500.500(7).

(9) Conduct of the Hearing

(a) To the extent that a Hearing Officer conducts a proceeding, it shall be conducted pursuant to M.G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules*, and/or 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.

(b) In the case of an Order to Show Cause why a License should not be suspended or revoked, the hearing shall be conducted pursuant to M.G.L. c. 30A, §§ 10, 11 and 12.

(c) If after the commencement of the hearing, the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 500.500(7).

(10) Reopening of Hearings. At any time before the Commission's Final Decision is issued, on the motion of any party or on their own initiative, the Commission by a majority vote or the Hearing Officer may on good cause shown reopen the hearing for the purpose of receiving new evidence.

(11) Hearing Officer's Recommended Decision.

(a) Burden of Proof.

1. For a notice of violation(s), the Commission or a Commission Delegee bears the burden of proving the violation(s) of law.
2. For a notice of action(s) including, but not limited to, the denial of a renewal License, the Licensee bears the burden of proving the qualifications for licensure.

(b) The Hearing Officer will make a recommended decision to the Commission.

1. The recommended decision may affirm, modify, or overturn the actions proposed in the notice of violation(s) or action(s).
2. The recommended decision shall be in writing to the Commission for its consideration which shall include, but not be limited to, a statement of reasons, including a determination of each issue of fact or law necessary to the decision.
3. The Hearing Officer may recommend disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter and provide reasons for the recommendation, including whether the recommendation is consistent with the notice of violation(s) or action(s) and the Commission's prior disciplinary action(s), sanction(s) or fine(s).
4. The Hearing Officer shall electronically mail a copy of the recommended decision to each party or their attorney(s) of record and on request, mail a copy of the recommended decision to each party or their attorney(s) of record.

(c) Within 21 calendar days of the issuance of the recommended decision, the parties may submit to the Commission written objections and arguments regarding the Hearing Officer's recommended decision.

(12) Commission's Final Decision.

(a) The Commission may affirm, adopt, modify, amend, or reverse the recommended decision of the Hearing Officer or remand the matter for further consideration.

(b) The Commission's decision shall be considered the Final Decision, unless its authority to render a Final Decision is delegated.

1. The Final Decision shall be in writing. The drafting of the decision may be delegated to the General Counsel so long as the Commission votes on the substance of the Final Decision.
2. The Final Decision may incorporate by reference the Hearing Officer's recommended decision in whole or in part. The Commission shall consider the parties' written objections and arguments regarding the Hearing Officer's recommended decision under 935 CMR 500.500(11)(c), but is not required to respond to these submissions.
3. The Final Decision shall include, but not be limited to, the following:
  - a. A statement of reasons including determination of each issue of fact or law necessary to the decision; and
  - b. Any disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(c) The vote on the Final Decision shall be supported and signed by at least three Commissioners. As part of its vote, the Commission may delegate to the General Counsel action(s) needed to finalize the decision including, but not limited to, the stamping of Commissioners' signatures.

(d) The Commission's Final Decision is a final agency action reviewable under M.G.L. c. 30A, § 14.

(e) The Commission or a Commission Delegee shall electronically mail a copy of the recommended decision to each Licensee, Registrant, Host Community or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee, Registrant, Host Community or their attorney(s) of record.

(13) Appeals. Any Person aggrieved by a Final Decision may appeal that decision to the Superior Court in accordance with M.G.L. c. 30A, § 14. The filing of an appeal shall not operate as a stay of enforcement of the Commission's decision, but the Commission may, in its discretion, stay enforcement.

500.802: Suitability Standard for Registration as a Marijuana Establishment Agent

(1) In accordance with M.G.L. c. 94G, § 4(a½)(iii), the Commission has established qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a Marijuana Establishment and similar to qualifications for licensure and employment standards in connection with alcoholic beverages as regulated under M.G.L. c. 138, provided that a prior conviction solely for a Marijuana-related offense or for a violation of M.G.L. c. 94C, § 34 shall not disqualify an individual or otherwise affect eligibility for employment or licensure in connection with a Marijuana Establishment, unless the offense involved the distribution of a controlled substance, including Marijuana, to a minor.

(2) For purposes of determining suitability based on background checks in accordance with 935 CMR 500.030 and 500.101:

(a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.

(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy and solicitation.

(c) Juvenile dispositions shall not be considered as a factor for determining suitability.

(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 500.802: *Tables B through D* commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.

(e) Unless otherwise specified in 935 CMR 500.802: *Tables B through D*, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800. In addition to the requirements established in 935 CMR 500.800 shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 500.802: *Tables B through D* renders the subject unsuitable for registration regardless of the determination of the Licensee; and

2. Consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

(3) Registered Agents shall remain suitable at all times a License or registration remains in effect. An individual subject to 935 CMR 500.802, shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under 935 CMR 500.802: *Tables B through D* within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

Table B: Retail, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, and Transporter Marijuana Establishment Agents. Applies solely to applicants for registration as a Marijuana Establishment Agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100, as a Marijuana Retailer, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, or as a Marijuana Transporter, under 935 CMR 500.050.

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Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	<p><b>Open/Unresolved Criminal Proceedings:</b></p> <p>Any outstanding or unresolved criminal proceeding for an offense involving the distribution of a controlled substance, including Marijuana, to a minor.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Open Professional or Occupational License Cases</b></p>	Presumptive Negative Suitability Determination
Present	<p><b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):</b></p> <p>An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations of an Other Jurisdiction, which has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Submission of Untruthful Information to the Commission Including, but Not Limited to:</b></p> <p>Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity including lack of disclosure or insufficient disclosure; or</p> <p>making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.</p>	Presumptive Negative Suitability Determination
Indefinite	<p><b>Conviction or Continuance without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor</b></p>	Mandatory Disqualification
Preceding Five Years	<p>The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and</p> <p>the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.</p>	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

Table C: *Marijuana Product Manufacturer Marijuana Establishment Agents*. Applies solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Marijuana Product Manufacturer under 935 CMR 500.050.

Time Period	Precipitating Issue	Result
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Present (during time from start of application process through action on application or renewal).	<b>Open/Unresolved Criminal Proceedings:</b> Any outstanding or unresolved criminal proceeding for an offense involving the distribution of a controlled substance, including Marijuana, to a minor.	Presumptive Negative Suitability Determination
Present	<b>Open Professional or Occupational License Cases</b>	Presumptive Negative Suitability Determination

Time Period	Precipitating Issue	Result
Present	<b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):</b> An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations in an Other Jurisdiction, that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination
Present	<b>Submission of Untruthful Information to the Commission Including, but Not Limited to:</b> Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or  making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)
Indefinite	<b>Conviction or Continuance without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor</b>	Mandatory Disqualification

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*Table D: Cultivation Marijuana Establishment Agents.* Applies solely to applicants for registration as an Agent at a Marijuana Establishment licensed as a Marijuana Cultivator or Craft Marijuana Cooperative.

<b>Time Period</b>	<b>Precipitating Issue</b>	<b>Result</b>
Present (during time from start of application process through action on application or renewal).	<b>Open/Unresolved Criminal Proceedings:</b> Any outstanding or unresolved criminal proceeding for an offense involving the distribution of a controlled substance, including Marijuana, to a minor.	Presumptive Negative Suitability Determination
Present	<b>Open Professional or Occupational License Cases</b>	Presumptive Negative Suitability Determination
Present	<b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):</b> An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations in an Other Jurisdiction, that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration	Presumptive Negative Suitability Determination
<b>Time Period</b>	<b>Precipitating Issue</b>	<b>Result</b>
Present	<b>Submission of Information to the Commission Including, but Not Limited to:</b> Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or  making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Indefinite	<b>Conviction or Continuance without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor</b>	Mandatory Disqualification
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and  the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

