

**City of Salem**  
**FIRST PASSAGE**  
**(\*CORRECTED VERSION)**

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*In the year two thousand and seventeen*

***An Ordinance*** to amend an Ordinance relative to Zoning  
*Be it ordained by the City Council of the City of Salem, as follows:*

The following is an amendment to *Section 6.0- Special Regulations* of Salem Zoning Ordinance:

***\*The original advertisement for the above was published in the Salem News on February 14, 2018 – only one paragraph Section 6.10.6 subsection 5 needed to be corrected***  
***The remainder of the text is correct***

**Corrected Version**

***Section 6.10.6 General Provisions***

The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G, including marijuana cultivation facilities, manufacturing facilities, testing facilities, and retail establishments:

5. Pursuant to M.G.L. c. 94G, §5(b)(3), a marijuana establishment shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, or within 500 feet of houses of worship and funeral homes, or within 1,000 feet from institutions of higher education, colleges or universities.

The Original Version published on 2/14/18 incorrectly stated a marijuana establishment shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12 and 1,000 feet from houses of worship, funeral homes and institutions of higher education, colleges or universities.

ATTEST:  
Adv: 2/20/18

CHERYL A. LAPOINTE  
CITY CLERK

# *City of Salem*

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*In the year two thousand and seventeen*

***An Ordinance*** to amend an Ordinance relative to Zoning

*Be it ordained by the City Council of the City of Salem, as follows:*

The following is an amendment to *Section 6.0- Special Regulations* of Salem Zoning Ordinance:

## ***Section 6.10 - Marijuana Establishments***

M.G.L. c. 94G, authorizes a system of state licensing for businesses engaging in the cultivation, testing, processing and manufacturing, and retail sales of marijuana, collectively referred to as “marijuana establishments.” In addition to the discretion the city has to issue a letter of support or non-opposition to a potential licensee to the state licensing authority, Section 3 of M.G.L. c. 94G allows cities to adopt ordinances that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with the law.

### ***Section 6.10.1 Purpose***

The purpose of this ordinance is to allow state-licensed retail marijuana establishments to exist in the City of Salem in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Ordinance, M.G.L. c. 40A, and M.G.L. c. 94G.

### ***Section 6.10.2 Applicability; Effective Date***

This section applies to all marijuana establishments including marijuana cultivators, testing facilities, product manufacturers, processors, and retailers licensed by the Commonwealth pursuant to M.G.L. c. 94G.

Under M.G.L. c. 94G, experienced marijuana establishment operators including medical marijuana treatment centers as defined in Chapter 369 of the Acts of 2012 with a registration in good standing, or a reorganized marijuana business established by a vote of at least 2/3 of the Board of Directors of any entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the Department of Public Health are also subject to this Zoning Ordinance should an experienced marijuana establishment operator of a medical marijuana treatment center convert into a retail marijuana establishment.

### ***Section 6.10.3 Definitions***

The following definitions, consistent with M.G.L. c. 94G, shall apply in the interpretation and enforcement of this section:

1. Marijuana cultivation facility- an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
2. Marijuana manufacturing facility- an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.
3. Marijuana testing facility- a laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the commission.
4. Marijuana retailer- an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

### ***Section 6.10.4 Special Permit Required***

The Zoning Board of Appeals may grant a special permit for marijuana establishments, as defined in M.G.L. c. 94G, in accordance with the standards set forth in this section and the general criteria for granting a special permit contained in section 9.4 of the Zoning Ordinance.

### ***Section 6.10.5 Requirements***

1. It shall be unlawful for any person to operate a marijuana establishment without obtaining a special permit to operate pursuant to the requirements of this Ordinance.
2. A separate special permit is required for each different marijuana establishment detailed in section 6.10.3, above. In the case that one or more different types of marijuana establishments are proposed, each establishment type shall require a special permit from the Zoning Board of Appeals.
3. The special permit requirements set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

4. The issuance of a special permit pursuant this chapter does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.
5. A special permit issued for a marijuana establishment is not transferable or assignable to a different location or a different type of marijuana establishment.

#### ***Section 6.10.6 General Provisions***

The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G, including marijuana cultivation facilities, manufacturing facilities, testing facilities, and retail establishments:

1. Security, Operations, and Emergency Plans. All marijuana establishments shall file a security plan, operation and management plan, and emergency plan with the Salem Police Department:
  - a. Security Plan
    - i. The petitioner shall submit a security plan to the Salem Police Department and Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
    - ii. The security plan shall include the details of all security measures for the site and the transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity.
  - b. Operation and Management Plan

All marijuana establishments shall submit an operation and management plan to the Building Department which shall include, but not be limited to the following elements: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, description of proposed operations, distribution practices, employee safety, general compliance, fire prevention, sanitation requirements, electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand prior to the issuance of a building permit.
  - c. Emergency Response Plan

All marijuana establishments shall meet with the Salem Fire Department and the Salem Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of

occupancy. A written Emergency Response Plan shall be filed with the Salem Fire Department and the Salem Police Department pursuant to M.G.L. c. 94G, §12.

2. A marijuana establishment may only be involved in the use permitted by its definition. Retail marijuana establishments may only be located in buildings with other uses, including other types of marijuana establishments, only if the marijuana establishment is separated by full walls from the other use.
3. All marijuana establishments shall be within a fully enclosed building.
4. Marijuana establishments shall not be located in mobile structures.
5. Pursuant to M.G.L. c. 94G, §5(b)(3), a marijuana establishment shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, or within 500 feet of houses of worship and funeral homes, or within 1,000 feet from institutions of higher education, colleges or universities.
6. Marijuana establishments shall, at a minimum, meet the requirements imposed on registered marijuana dispensaries for storage.
7. No odor from marijuana establishments may be noxious or cause a public nuisance.
8. No retail marijuana establishment shall be managed by any person other than the licensee or their assign. Such licensee or assign shall be on the premises during regular hours of operation and responsible for all activities within the licensed business and shall provide up to date emergency contact information for the Salem Police Department to have on file.
9. All waste disposal, shall at a minimum, meet the requirements imposed on registered marijuana dispensaries for disposal to prevent exposure to the public or create a nuisance.
10. The marijuana establishment shall remove all material, plants, equipment, and any other retail marijuana establishment items upon ceasing its operation.
11. All business signage shall be subject to the requirements to be promulgated by the Cannabis Control Commission and the requirements of Sections 4-31 through 4-60 of the Code of Ordinances.
12. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed marijuana establishment.
13. Hours of operation for marijuana retailers shall be consistent with those of package stores licensed under M.G.L. c. 138.

### ***Section 6.10.7 Application Procedure and Submission Requirements***

If a Special Permit is required by *Section 3.0 Table of Principle and Accessory Uses* of the Zoning Ordinance, the petitioner (Applicant) shall submit a standard petition form and materials of the Zoning Board of Appeals application in addition to the following required materials:

1. Notice from the City shall be sent by mail, postage prepaid to "parties in interest" as used in M.G.L. c. 40A within five hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list.
2. Applicant shall submit proof of approval from the Commonwealth of Massachusetts for the proposed marijuana establishment by submitting copies of all required registrations, licenses and permits issued to the applicant by the state and any of its agencies for the facility as well as the letter of support or non-opposition issued by the city.
3. The Applicant shall submit proof of site control and right to use the premises proposed for the marijuana establishment and may include a deed, notarized statement from the property owner and a copy of the lease agreement, or real estate contract contingent upon successful licensing, or a letter of intent by the owner of the premises indicating intent to lease the premises to the petitioner contingent upon successful permitting.
4. In addition to complying with any other state or city requirement related to good character and criminal background, any person or entity proposed to have interests in the license to operate a marijuana establishment shall not have committed any marijuana licensing violation affecting public safety, or received any suspension or revocation of any other state or local marijuana business licenses.
5. A statement signed by the organization's chief executive officer disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly situated individuals. If any of the above are entities rather than persons, the Applicant must disclose the identity and current contact information of all responsible individuals.
6. A detailed description of the proposed activities to occur on site in relation to the standard special permit criteria set out in Section 9.4 of the Salem Zoning Ordinance and specific requirements set forth in this chapter.
7. The petitioner shall submit a security plan to the Salem Police Department and the Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
8. The petitioner shall submit an operation and management plan to the Salem Police Department and the Department of Planning and Community Development.

9. The petitioner shall submit a copy of an Emergency Response Plan to the Salem Police Department, the Salem Fire Department, and the Department of Planning and Community Development.
10. The petitioner shall submit proof that it provided notification in writing to all churches, libraries, institutions of higher education, licensed daycares, nursery schools, or playgrounds within 500 feet of its proposed location to provide them with the opportunity to comment at the Board of Appeals.

#### ***Section 6.10.8 Special Permit Findings***

In addition to the findings for a special permit in Section 9.4 of the Zoning Ordinance, the Zoning Board of Appeals must also make the following findings:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L. c. 94G, §12 *General Marijuana Establishment Operation*.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and location of cultivation is adequately secured.

#### ***Section 6.10.9 Requirements Specific to Marijuana Cultivation Facilities***

As the cultivation and processing of marijuana is not considered agriculture under M.G.L. c. 128, §1A, and is subject to M.G.L. c. 94G, §12, the following restrictions to ensure the health, safety, well-being of the public, and limit undue impacts on the natural environment as it relates to cultivation, shall apply:

1. All marijuana cultivation facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
2. All marijuana cultivation facilities shall use LEDs for all fixtures except for those that are used in flowering rooms. High Pressure Sodium grow lights may be used for no more than fifty percent (50%) of the total square footage of the cultivation area to maximize flowering conditions and limit electricity demand.
3. No more than one-half of the marijuana plants may be mature, flowering plants.
4. No pesticides, insecticides, or other chemicals shall be used in the cultivation of marijuana.
5. Marijuana cultivators shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

#### ***Section 6.10.10 Requirements Specific to Marijuana Manufacturing Facilities***

Marijuana manufacturing facilities shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure the health, safety, and well-being of the public, and limit any undue impacts on the natural environment as it relates to manufacturing, shall apply:

1. All marijuana manufacturing facilities shall use high-efficiency lights and manufacturing equipment to limit energy and water usage demand.
2. All marijuana manufacturing facilities shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

#### ***Section 6.10.11 Requirements Specific to Marijuana Testing Facilities***

1. All marijuana testing facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
2. Marijuana testing facilities shall be subject to the requirements of M.G.L. c. 94G, §15 and any regulations that the Cannabis Control Commission may promulgate thereunder to ensure there are no undue impacts on the health, safety, and well-being of the public.

#### ***Section 6.10.12 Requirements Specific to Marijuana Retailer Establishments***

Marijuana retailers shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

1. As defined in M.G.L. c. 94G, and as established in section 24-30 of the Code of Ordinances, the number of marijuana retailers shall be limited to no more than 20% of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138, §15.
2. All marijuana retail establishments shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

#### ***Section 6.10.13 Unlawful Acts***

1. It shall be unlawful for any person to operate any marijuana establishment in the city without a valid license issued by the state licensing authority under the M.G.L. c. 94G.
2. When a marijuana establishment has received a renewal license from the state, the business shall submit a copy to the Department of Planning and Community Development and the Building Department within thirty (30) days of receipt.



3. It shall be unlawful for any person to operate any retail marijuana, marijuana product manufacturing, or marijuana cultivation establishment without a special permit from the City of Salem Zoning Board of Appeals.

***Section 6.10.14 Severability***

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

In City Council September 28, 2017

Referred to the Planning Board to schedule a joint public hearing with the City Council

A joint public hearing was held on November 15, 2017 and continued to November 27, 2017

Continuation of a public hearing was held on November 27, 2017

Referred to the Planning Board for their recommendation

In City Council January 11, 2018

Received Planning Recommendation which was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole along with this ordinance

In City Council February 8, 2018

Adopted for first passage as amended by roll call vote of 8 yeas, 2 nays, 1 absent

ATTEST:

CHERYL A. LAPOINTE  
CITY CLERK