



**TOWN OF BROOKFIELD**  
***RULES AND REGULATIONS***  
**BOARD OF HEALTH**

**REGULATION OF MARIJUANA ESTABLISHMENTS TO PREVENT  
NUISANCE**

**SECTION I. STATEMENT OF PURPOSE AND AUTHORITY:**

- The purpose of this regulation is to protect the public health and welfare by regulating certain aspects of the operation of Marijuana Establishments which may be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by injurious odors.
- Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of all Brookfield residents and pursuant to the authority granted to it pursuant to G.L. c. 111, §§ 31, 122, and 143, the Board of Health of Brookfield enacts a Regulation of Operations of Marijuana Establishments to Prevent Nuisance.

**SECTION II. DEFINITIONS**

For the purposes of this regulation, the following words and phrases shall have the following meanings:

Ambient Noise Level: The all-encompassing noise level associated with a given environment, excluding any alleged condition of noise pollution.

Board of Health: means the Town of Brookfield Board of Health and its designated Board of Health agents.

Decibel (dB): The unit by which sound is measured.

Marijuana Establishment: Any type of marijuana-related business licensed by the Cannabis Control Commission (CNB) pursuant to 935 CMR 500.050, 935 CMR 501.000, and 935 CMR 502.000 including a marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, independent testing laboratory, marijuana retailer, delivery-only marijuana retailer, marijuana social consumption establishment, marijuana research facility, marijuana transporter, marijuana micro-business, Medical Marijuana Treatment Center (MTC) and a collocated marijuana operations (CMOs).

Noise: means sound of sufficient intensity and/or duration as to cause or contribute to a condition of air pollution.

Nuisance: An act or failure to perform a legal duty which causes or permits a condition to exist which injures or endangers the public health, safety or welfare of the inhabitants of the Town of Brookfield, or which annoys or disturbs a reasonable person of normal sensitivities, or which interferes with a person's reasonable, peaceable and quiet enjoyment of their property.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to an owner, operator, manager, proprietor or person in charge of any establishment, business, cultivation property or retail store.

### **SECTION III. OFFENSIVE OR NOISOME MARIJUANA ESTABLISHMENTS**

This regulation is intended to prevent all nuisances from noise, odor or otherwise which may be injurious to the public health, safety, or welfare of the inhabitants of the Town of Brookfield. Specifically, the following Marijuana Establishment operations shall be deemed a nuisance, namely those which:

1. create a noise when measured at the property boundary of the receiving land use in excess of 10 dB above ambient noise level or otherwise in violation of 310 CMR 7.00; or
2. create a noise which endangers the safety of or could cause injury to the health of humans or animals; or
3. create a noise which annoys or disturbs a reasonable person of normal sensitivities; or
4. create a noise which endangers or injures personal or real property; or
5. create a noise which interferes with a person's reasonable, peaceable and quiet enjoyment of their property; or
6. emit an odor which is discernible by a reasonable person of normal sensitivities at the property boundary of the receiving land use; or
7. emit an odor which annoys or disturbs a reasonable person of normal sensitivities; or
8. emit an odor which endangers the safety of or could cause injury to the health of humans or animals; or
9. emit an odor which endangers or injures personal or real property; or
10. emit an odor which interferes with a person's reasonable, peaceable, and quiet enjoyment of their property.

## **SECTION IV. ORDER OF REMOVAL AND APPEALS**

If the Board of Health receives three (3) or more complaints within thirty (30) days, it may order the Marijuana Establishment to submit to independent testing to verify or refute the existence of the complained nuisance at the expense of the Marijuana Establishment.

The Board of Health of the Town of Brookfield shall order a Marijuana Establishment, at its own expense, to remove any nuisance found thereon within twenty-four hours or such other time the Board of Health deems reasonable.

If the owner or operator of a Marijuana Establishment fails to comply with such order, subject to the appeal rights below, the Board of Health of the Town of Brookfield may revoke its operating permit issued by the Board of Health pursuant to its Regulation to Ensure the Sanitary and Safe Operations of Marijuana Establishments and the Sale of Adult-Use Marijuana and Cannabidiol.

The Board shall notify a Marijuana Establishment in writing of any order taken pursuant to this section IV of the Board's regulations. The Marijuana Establishment shall have seven (7) days, or such other time as the Board of Health deems reasonable, after receipt of such written notice in which to comply with the Board's order or request a hearing before the Board. If the Marijuana Establishment fails to either comply with the order or request a hearing before the Board after said seven (7) days, the Board of Health of the Town of Brookfield may cause the nuisances to be removed, and all expenses incurred thereby shall constitute a debt due the Town of Brookfield.

## **SECTION V. ENFORCEMENT**

The Board of Health, its agents, officers, and employees, shall have the authority, consistent with the laws of the Commonwealth to enter upon privately owned land for the purpose of performing their duties for the administration and review of this regulation, and may make or cause to be made such examinations, surveys, or samples as the Board of Health deems necessary at the expense of the Marijuana Establishment. The Marijuana Establishment shall submit to the same.

The Board of Health shall have the authority to enforce these regulations issued thereunder by violation notices, administrative orders, and civil and criminal court actions. As an alternative to criminal prosecution, the Board of Health may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D. If non-criminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be: \$100.00 for the first offense; \$200.00 for the second offense; \$300.00 for the third offense; and \$300.00 for the fourth and each subsequent offense. Each day or portion thereof during which a violation occurs or continues shall constitute a separate offense, and each provision of the regulation that is violated shall constitute a separate offense.

**SECTION VI. APPEAL**

Unless otherwise provided, any Person aggrieved by the decision of the Board of Health may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts.



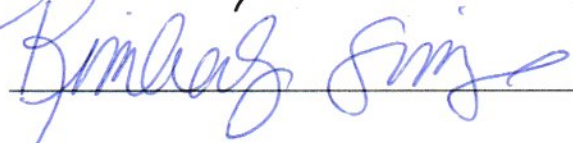
**SECTION VII. SEVERABILITY**

If any portion, or sentence, clause or phrase of this regulation shall be held invalid for any reason, the remainder of this regulation shall continue in full force and effect.

**SECTION VIII. EFFECTIVE DATE:** 11/8/2024

This regulation shall take effect upon passage by the Board of Health and publication in a newspaper of general circulation. .

Signatures of Board of Health

  
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